

**APPLICANT SRF MANUAL**  
**PROCEDURES TO PARTICIPATE IN**  
**THE HAWAII STATE**  
**WATER POLLUTION CONTROL REVOLVING FUND**  
**LOAN PROGRAM**



**PREPARED BY THE**  
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## I. INTRODUCTION

The federal Water Quality Act of 1987 (the Act) created the State Revolving Fund Loan Program (commonly known as the SRF). The Act authorized low interest loans for the construction of publicly owned wastewater treatment works (POTWs), for implementation of a nonpoint source (NPS) pollution control management program, and for implementation of an estuary conservation and management program.

In 1988, the Hawaii State Legislature passed Act 365 establishing a State Water Pollution Control Revolving Fund to receive the federal capitalization grant. This Act was later superseded by HRS Chapter 342D-Part V.

The SRF Program provides low interest loans to county and state agencies, and other Applicants to construct point source and nonpoint source water pollution control projects. The SRF is to be maintained in perpetuity.

This manual presents the policies and procedures of the SRF Program. It is intended to guide county, state, and other Applicants in obtaining SRF loans and complying with all the applicable requirements. Appendix C contains a flow chart of the SRF loan process with questions and answers regarding the SRF Program.

Other documents available at the Department of Health (DOH), Wastewater Branch provide explanation of the various activities and requirements of the SRF Program. These documents include the federal regulations in 40 CFR 35 Subpart K, the Operating Agreement between the State of Hawaii and EPA, and the annual Intended Use Plan (IUP).

## II. PROGRAM PURPOSE

The purpose of the SRF Loan Program is to implement the Water Quality Act and various state laws and rules including Chapter 342D-Part V of the Hawaii Revised Statutes (HRS) and Chapters 11-62 and 11-65 of the Department of Health Administrative Rules (HAR). The Program assists in financing the construction of water pollution control projects necessary to prevent contamination of our groundwater and coastal water resources and to protect and promote the health, safety and welfare of the citizens of the State of Hawaii.

### III. OVERVIEW OF THE SRF LOAN PROGRAM

#### A. Federal and State Funds

The Water Quality Act of 1972 transferred the responsibility for financing point source and nonpoint source water pollution control projects from the federal government to the State of Hawaii. The authority for EPA to make grants to the States to provide seed capital for the SRF was initiated in 1989. Federal funds are matched with a 20% State contribution as required by the Act.

The 2000 Clean Water Needs Survey, Report to Congress, which reports on the future water pollution control needs of the country, indicated that our state needed over \$1.7 billion of new wastewater treatment works constructed in the future to allow for economic growth, to improve the quality of the environment and to meet federal water quality standards. The SRF Program can be pivotal in financing projects addressing these needs.

The sources of nonpoint source (NPS) pollution are many and can be categorized as follows:

- urban runoff (\*stormwater)
- construction site runoff
- agricultural site runoff
- animal waste site runoff
- individual waste system (cesspools & septic systems) leaks and runoff
- storage tank site leaks and runoff
- waste storage site leaks and runoff
- landfill site leaks and runoff

(\*stormwater projects required to have Stormwater Permits issued by the DOH Clean Water Branch are considered point source projects. Projects not required to have Stormwater Permits are considered nonpoint source (NPS) projects. Pollution control projects addressing any of these sources are eligible for SRF funding consideration.)

#### B. Federal and State Fund Requirements

All SRF are required to comply with the state or federal Requirements outlined within this manual.

### C. Premises of SRF Program Funding

SRF program policy is as follows:

1. Loans will be made from the currently available federal and State funds at 100% of allowable project costs;
2. An administration fee of one percent (1%) of the outstanding loan balance shall be collected annually by the SRF program;
3. Each loan shall bear a simple interest at a rate of two thirds (2/3) of the bond market prime rate as indicated in the most recent publication of "The Bond Buyer", less the one percent administrative fee;
4. The interest rate will remain fixed over the life of a loan;
5. The principal amortization on loans will begin one year after the Notice To Proceed (NTP) or the date of the final loan agreement, whichever is later;
6. Projects will be funded on a first-need. However, when funds are limited, compliance projects will receive priority over new capacity projects.
7. The maximum loan repayment period is 20 years. Repayments shall be made at least semi-annually.

For the construction of point source pollution control projects, SRF loan financing will be available for the construction phase only. A design cost allowance may be provided for the project. However, design-build projects accepted for SRF funding will be funded at 100% of allowable design and construction project costs.

For NPS pollution control projects, SRF funding will be decided on a case-by-case basis. SRF funding may also be considered for linked-deposit loan programs to fund other NPS pollution control programs.

### IV. SRF LOAN PROGRAM FLOWCHART

The SRF loan program requires that a series of phases be followed to obtain a loan. These phases are illustrated

with a flowchart in Appendix C. The required phases for the SRF loan program are listed in sequential order below to introduce the entire process. Specific guidance for each phase is presented in the discussion that follows.

1. PRIORITY LIST PHASE:

- A. Applicant requests project ranking
- B. DOH ranks projects (via Priority List)
- C. DOH develops the Intended Use Plan (IUP) to present for public notice the future projects selected for SRF funding for the coming fiscal year

2. PLANNING PHASE:

- A. Applicant submits Project Report
- B. DOH reviews/approves Project Report
- C. Applicant submits Environmental Assessment Documents (EAD's) to OEQC and DOH
- D. DOH oversees the environmental review process via the State Environmental Review Process (SERP)
- E. Applicant submits Plans & Specifications
- F. DOH reviews/approves Plans & Specifications
- G. DOH reviews/approves State and Federal Requirements (if applicable)
- H. DOH completes Planning Documents review (Project Report, SERP, Plans & Specifications, State and Federal Requirements), and sends a Planning Documents approval letter to Applicant

3. LOAN AGREEMENT PHASE:

- A. Applicant submits SRF loan application
- B. DOH approves loan application

- C. DOH completes the Planning Documents review (see Planning Phase), sends Planning Documents approval letter to Applicant
  - D. DOH sends loan offer, interim loan agreement, and Pre-Award Package to Applicant
  - E. Applicant and DOH sign interim loan agreement
  - F. Applicant advertises/opens bids
  - G. Applicant submits Pre-Award Package with the contracts and agreements it proposes to accept
  - H. DOH reviews/approves Pre-Award Package and proposed contracts and agreements. DOH sends final loan agreement (deleting interim conditions that are satisfied) to Applicant
  - I. Applicant and DOH sign final loan agreement
4. CONSTRUCTION PHASE:
- A. Applicant initiates construction
  - B. DOH conducts interim construction inspections
  - C. DOH conducts final construction inspection and establishes construction cut-off date with the Applicant
5. LOAN PAYMENT PHASE:
- A. Applicant submits all remaining documents required before payment can be processed
  - B. Applicant requests payment every month based on costs incurred
  - C. DOH reviews/approves/processes payments
6. OPERATIONS PHASE:
- A. Applicant initiates project operation
  - B. Applicant certifies one-year operation (if



required)

7. LOAN REPAYMENT PHASE:

- A. Applicant repays loan, beginning one year after the Notice to Proceed (NTP) date or the date of the final loan agreement, as stated in the final loan agreement.

8. LOAN CLOSE-OUT PHASE:

- A. DOH revises loan amortization schedule and sends loan amendment to Applicant
- B. DOH and Applicant sign loan amendment
- C. Applicant makes repayments

Three annual requirements are the Single Audit (completed by the Applicant), the Sewer User Charge System review, and the Financial Capability Review, both completed by the DOH.

The listing above presents eight major phases that are required to complete the SRF loan process. It is imperative the Applicant and the DOH act in concert so that the SRF loan process can be a success.

V. PRIORITY LIST PHASE

The Applicant's first step in the SRF process is to submit a Proposed Project For SRF Funding Form (Appendix D) for each project it wants DOH to consider for SRF funding within the next five years. The Applicant must submit these forms to DOH by the fifteenth day of October of each year, to ensure that all proposed projects will be considered during the preparation of the Priority List. SRF loans can be awarded only to projects listed on the annual Priority List.

The DOH will rank all the proposed projects, in accordance with the Priority System Policies (Appendix E). The DOH will prepare the Priority List of all proposed projects. A separate Priority List will be created for all proposed NPS projects.

DOH will prepare an Intended Use Plan (IUP) that will include projects that the DOH has committed to fund during the next fiscal year. The public will have at least 30 days

to comment on the draft IUP. Each Applicant will also be provided an opportunity to comment on the draft IUP. If warranted by public comments, DOH will schedule a public meeting. After taking into consideration all comments received, DOH will prepare the final IUP for EPA and send a copy to each Applicant. (Appendix E contains a time-line of critical dates during this process.)

Once a project is identified in the IUP, the Applicant should proceed with the planning phase of the project. In the event that a project identified for funding in the IUP is unable to proceed, DOH may bypass this project and substitute it with another project from the Priority List.

## VI. PLANNING PHASE

The Planning Phase involves the completion of all planning documents. The two most important documents are the Project Report and the Environmental Assessment Documents.

### A. Project Report:

The Project Report for point source pollution control projects addresses and analyzes the project area water quality needs (including collection, transmission, treatment and disposal). It describes in depth how the proposed project best meets the local problems and needs, and selects a cost-effective alternative for fulfilling these needs.

For NPS projects, the Project Report addresses and analyzes the project area NPS pollution problems and their effects on water quality and the general public health of the area. It describes in depth how various pollution control methods best meet these problems and needs, and selects a cost-effective alternative for fulfilling these needs.

Appendix F describes the DOH Project Report criteria that should be addressed for each project. DOH will review the Project Report to assess the scope of the proposed project. Approval of the Project Report will set the stage for the Applicant to submit the project Plans and Specifications and other required documents.

### B. Environmental Assessment Documents:

The Environmental Assessment Documents (EADs) provide an assessment of the impact of the proposed project on the

local environment. The EADs will consist of an Environmental Assessment (EA) and the EA Checklist and Certification form. In addition to the current EA, prior EA's and decision documents (EIS, FNSI, Reaffirmations, Negative Declarations) may be submitted. The prior EA's or decision documents may include the proposed project as part of a larger "parent" project.

Any prior decision document submitted must contain information applicable and pertinent to the proposed project, and have logical relevancy to and bearing on the action being proposed. In particular, the scope of the proposed project must be substantially similar to the project identified in the prior decision document. (Prior decision documents five years old or older must be reaffirmed by the Applicant. A public notice of this reaffirmation should also be prepared.)

When prior decision documents are submitted, a review of the current environmental impacts of the proposed project must be conducted, and new impacts must be addressed in the current EA. If it is determined there are no new impacts, then the current EA need not be an extensive document.

To prepare and submit the EAD's, the Applicant shall follow the procedures and requirements of HRS Chapters 343 (Environmental Impact Statements) and the HAR Chapter 11-200. Reference should be made to A Guidebook for the Hawaii State Environmental Review Process, August 1992, prepared by the Office of Environmental Quality Control (OEQC). Appendix G describes the EAD's criteria that should be addressed and contains the EA Checklist and Certification form necessary for each project. The EAD's must be submitted to the OEQC and DOH.

The first step is the preparation of the EA that is necessary for each proposed project. If the proposed project and its environmental impacts do not differ significantly from a project previously assessed by an EIS, FNSI, or NEG DEC, then the EA should state this fact. The EA (addressing the impacts of the specific project not assessed by the prior decision document), the EA Checklist and Certification form, plus a copy of the prior decision document will then constitute the EAD's for the project.

Federal and state regulations require that each SRF project undergo an environmental assessment process. (Projects or

actions which will have minimal or no significant effect on the environment are exempted from this requirement - see HAR sec. 11-200-8.) The DOH will oversee this process via the environmental review process, which is described in the following Section C.

#### C. Environmental Review Process:

The DOH will oversee the environmental review process for all SRF proposed projects so that they are in compliance with all state and federal requirements. All environmental review procedures by the Applicant will be based upon the State requirements as outlined in HRS Ch. 343 and HRS Ch. 11-200. The OEQC Guidebook should be used as a guide. This assessment of the possible impacts of the project on the present and future environment is required for all projects. Appendix H outlines the procedures for the State Environmental Review Process (SERP).

For the SERP process, the Applicant must complete a number of steps that are required by federal regulation. These steps are outlined in Appendix H. A copy of all the documents sent to the OEQC for the environmental review process shall be sent to the DOH no later than the day the documents are provided to the OEQC.

To encourage public participation in all projects, the Applicant must give public notice of all environmental assessment determinations either in the community newspaper or in the OEQC newsletter. For projects whose environmental documents were developed within the past five years, the notice within the OEQC newsletter is an acceptable public notice. For any EIS, the Applicant must hold a public meeting for the project.

The DOH reserves the right to refuse any SRF loan to any Applicant if, for any reason, DOH feels that the proposed project has the potential to impact on the environment in ways that the Applicant has not considered or has not prepared mitigation measures for.

#### D. Plans and Specifications:

Following submittal of the Project Report and the EAD's, the County should submit the design documents for the project, specifically the plans and specifications (P&S) and the project performance standards.

The DOH will review and approve the P&S. The review will focus on the scope of work of the project, whether it will meet the design requirements as applicable, any concerns of the environmental review process, and whether the project will comply with the federal and state loan program requirements. The Applicant is encouraged to submit as early as possible preliminary engineering design reports and P&S to the DOH for review and comments if so desired. However, the final P&S and the project performance standards are required for DOH review and approval prior to the approval of the final loan agreement by both parties.

An important aspect of the DOH P&S review is the determination of the costs of the project that are "allowable" for SRF funding. Project cost items will be classified as either "eligible" or "ineligible" for loan funding. (See Appendix I for Allowable Cost Criteria and Design Allowance Table). When the P&S are approved and the allowable costs have been determined, the DOH will notify the Applicant by letter, listing any conditions that apply to the project.

#### E. State and Federal Requirements:

State regulations require that any County receiving SRF loan funds shall take specific steps to reduce polluted runoff into state waters through educational and regulatory programs.

Federal regulations require that the Applicant meet certain conditions for SRF loan monies prior to the approval of the loan agreement by the DOH. These conditions apply to all SRF projects.

In signing the loan application and the loan agreement, the Applicant certifies that they have complied or will comply with all the federal regulations applicable to the project and the "cross-cutter" authorities that involve applicable environmental, social, economic and miscellaneous federal regulations that may apply to the proposed project.

Appendix M (Federal Requirements for SRF Loan Agreements) contains the "Construction Contract Documents ("Boiler Plate")" which must be inserted into all federally funded SRF construction contracts and subcontracts.

F. Planning Documents Approval:

At the completion of the planning phase review, the DOH will send a Planning Documents Approval letter to the Applicant.

VII. LOAN AGREEMENT PHASE:

Concurrent with the Planning Phase, the Applicant should complete the Loan Agreement Phase, including the following items:

A. Loan Application:

When the Project Report (or Preliminary Engineering Report if applicable) is completed and sent to the DOH, the Applicant can submit a loan application (Appendix J).

B. Loan Offer:

Once DOH has reviewed and approved the loan application, it will send a loan offer to the Applicant. The loan offer will include the interim loan agreement (Appendix K).

The Applicant must submit the following documents and forms, as required in the interim loan agreement, before the final loan agreement can be signed:

1. A resolution or ordinance passed by the County Council that authorizes the SRF loan application and identifies the dedicated source(s) of revenue (i.e., general obligation bonds) which will fund the project and repayment of the loan with interest. (This must be submitted before the first loan payment to the Applicant is made.)
2. For all real property, including easements required for the project, attach an opinion from a title counsel certifying that sufficient interest or rights to all property have been obtained to ensure undisturbed use and possession for the useful life of the project. (This must be submitted before the first loan payment to the Applicant is made.)
3. Any inter-governmental or Applicant-private agreements relative to this project.

4. The project environmental review documents.
5. The Applicant must also submit: a Compliance Report form (EPA form 4700-4); and Certification Regarding Debarment, Suspension, and Other Responsibility Matters (EPA form 5700-49) (Appendix J).

In addition, the Planning Phase must be complete and the Planning Documents approval letter sent by the DOH to the Applicant.

If the above requirements and other terms of the interim loan agreement are acceptable to both parties, the Applicant and DOH will sign the final loan agreement.

C. Bid Advertisement:

Upon signing the interim loan agreement, the Applicant should advertise for bids to construct the project and negotiate any A/E agreements. The state procurement requirements (Chapter 103D of the Hawaii Revised Statutes) apply to the SRF program.

During the procurement process for all projects, the Applicant must comply with the federal regulations governing the participation of Minority Business Enterprises and Women's Business Enterprises (see Appendix O). Also, the federal "boiler plate" requirements must be included in the proposed contract(s) for all projects (Appendix M).

D. Pre-Award

After the Applicant has selected the contract(s) and agreement(s) it proposes to accept, it should submit the following documents to DOH.

1. Pre-Award Form (Appendix L).
2. The proposed A/E agreement(s) - all agreements must include the "boiler plate" requirements.
3. For the construction portion of the project (if applicable):
  - a. Construction contract(s) which the Applicant proposes to accept, with the bid tabulation. (All construction contracts must include the

"boiler plate" requirements.)

- b. A summary of all bidders' proposals received, with an identification of the lowest, responsive, responsible bidder;
- c. Evidence of bid advertisement; and,
- d. The engineer's estimate of project costs.

Neither EPA nor DOH will be involved in resolving bid disputes. DOH will not disburse any loan amount until all bid disputes have been resolved by the loan recipient.

DOH will review and approve the Pre-Award packet and all the contracts and agreements. Based on this review, DOH will determine the amount of the loan and will initiate the execution of the final loan agreement.

E. Final Loan Agreement Terms:

The final loan agreement will be sent to the Applicant for signature. If the Applicant chooses to sign the agreement, it must comply with the following terms:

- 1. The Applicant must promptly proceed with construction of all significant elements of the project (if applicable).
- 2. The Applicant must maintain its accounting records for this project in accordance with the "Fiscal Records to be Maintained by Applicants" (See Appendix N).
- 3. The Applicant must submit to DOH the executed construction contracts, the executed A/E agreements, and the Notice to Proceed. The Applicant must also submit the Certifications Regarding Debarment and Suspension completed by each contractor and A/E firm, and a completed MBE/WBE Utilization form for the project. No payments will be processed until these documents are received. (See Appendix M).

Once the Applicant signs the final loan agreement, it must be returned to DOH for signatures. The final loan agreement is executed once it has been signed by all parties. DOH



will send the Applicant one executed copy of the agreement, with original signatures.

#### VIII. CONSTRUCTION PHASE: (if applicable)

The Applicant initiates this phase by conducting the pre-construction conference. The Applicant should notify DOH of the conference date.

During the construction of the project, DOH engineers will perform construction inspections to ensure that the facility is being constructed in accordance with the scope of work of the project, the P&S, and the loan agreement. The inspections will be conducted on a quarterly basis at a minimum.

If funds are available, a contingency of up to 10% of the original eligible construction costs, shall be provided to fund eligible change orders. The Applicant should submit to DOH only those construction change orders which it wants DOH to review for eligibility. DOH will review these change orders in accordance with the Allowable Cost Criteria and the guidance on change order requirements and eligibility, provided in Appendix Q. DOH will notify the Applicant of the change order eligibility. The Applicant shall request payment only for change orders which DOH has determined are eligible.

When the construction of the project is complete, the Applicant will request a Final Construction Inspection from the DOH. DOH engineers will conduct this inspection to see that the project has been constructed in accordance with the scope of work of the project, the plans and specifications, and the loan agreement. A final construction inspection report will be written by DOH and sent to the Applicant.

The DOH, in consultation with the Applicant representatives, will determine the construction cut-off date. After this date, no costs incurred by the Applicant on this project are eligible for SRF loan funding.

#### IX. LOAN PAYMENT PHASE:

As previously noted, before payment can be processed the Applicant must submit the executed construction contracts and A/E agreements, and the Notice to Proceed with construction.

The Applicant must also submit the Certifications Regarding Debarment and Suspension, completed by each contractor and A/E firm, and a completed MBE/WBE Utilization form for the project. If the Applicant identifies an MBE/WBE which is not on DOH's list, then it must submit a self-certification of MBE/WBE status (see Appendix O).

On a monthly basis, the Applicant should request payment for costs incurred. Although costs incurred must be due and payable, the Applicant need not have paid the contractor before submitting a request for payment under the loan agreements. Payment for the loan will be made directly to the Applicant.

The Applicant must request payment by submitting the SRF Progress Payment Request form Appendix P. The payment request (original and two copies) must be accompanied by one set of supporting invoices and a combined voucher register and expenditure distribution journal (commonly referred to as "spread sheet"). The submittal must include a copy of the contractor's pay estimate (signed by both the recipient and the contractor).

DOH may, at any time, review and audit payment requests and adjust for errors or items not eligible for loan assistance.

The loan payment will be based on the amount of money currently due and payable to the contractor for eligible bid items, minus any amounts previously paid by DOH.

Engineering and project inspection fees will be paid as a percentage of the project completion to date. The Applicant should assure that adequate funding is available to pay the contractor in case the loan payment is not processed before payment to the contractor is due.

X. OPERATIONS PHASE:

The Applicant will notify the DOH of the Project Initiation Date for the constructed facility or project. The Hawaii Administrative Rules (Section 11-62-23(f)) require that after the first year of operation of any wastewater treatment plant releasing effluent into the environment, the applicant must certify to the Department of Health that the plant is meeting the applicable effluent requirements as outlined in Section 11-62-26.

This rule does not apply to other projects constructed with

SRF funding such as sewers, wastewater pump stations, etc.

XI. LOAN REPAYMENT PHASE:

The Applicant shall repay the loan to DOH in semi-annual installments not to exceed 20 years, with the first repayment due one year after the date of the Notice to Proceed with construction of the project or one year after the final loan agreement is accepted and signed by the Applicant, whichever occurs later.

Following the final loan payment, a supplemental loan agreement shall be prepared to reflect the final amortization schedule for the loan repayments. All loan repayments must be sent to the Wastewater Branch. With the Director's prior approval, the recipient may prepay all or any portion of the project loan.

There will be a 1% per month simple interest penalty for late repayments. There is a 15 day grace period. If the payment is not received by the end of the grace period, the penalty will be assessed from the repayment due date. Penalties assessed will not change the principal balance of the loan contract. Such penalties will be treated as a separate amount, in addition to the repayment due.

XII. LOAN CLOSE-OUT PHASE:

When the Applicant submits the final repayment. The DOH will send a letter to the Applicant certifying that the loan has been repaid in full.

XIII. ANNUAL REQUIREMENTS:

The following tasks must be performed every year. It is possible that the results of these annual reviews may affect the eligibility of SRF project costs or even a Applicant's eligibility for SRF loans.

A. Single Audit Requirement:

By December 31 of each year, the loan recipient should submit to DOH the Annual Single Audit Report performed by an independent auditor, in accordance with OMB Circular A-128. This report must contain an audit of the SRF funds received by the Applicant during the state fiscal year. Should the audit report contain a qualified opinion, DOH will take

reasonable and necessary action to resolve any discrepancies with the loan recipient. Should the auditor's determination of the final eligible project costs be less than the total SRF loan amount paid, DOH will request a reimbursement from the recipient and process a loan amendment to reflect the actual eligible project costs.

B. Sewer User Charge System Requirements:

As specified in the loan agreement, the Applicant must ensure that its sewer user charge system (UCS) generates sufficient revenue for adequate operation, maintenance and equipment replacement of the wastewater treatment facilities. Guidance for establishing such a Revenue Program is described in Appendix R. Every year, DOH will request information about the UCS, including completion of a UCS Review Financial Report (Appendix S). DOH shall review annually the Applicant's UCS and issue a report. DOH and the Applicant will work together to resolve any deficiencies.

C. Financial Capability Review:

DOH will conduct a financial capability analysis of State Revolving Fund loan applicants. The purpose of this review is to safeguard against the possibility of default.

The financial capability review shall consist of collecting basic financial indicators about municipal debt, financial operations and socioeconomic conditions. These indicators will be compared with indicators of prior years and any available benchmarks. The financial capability review shall be conducted in a confidential manner.

XIV. Miscellaneous Items:

A. Record Keeping Requirements:

The Applicant must keep and maintain project records, including:

1. Accounts accurately depicting amounts received and expended for the project, including all funds received from the SRF;
2. Total costs of the project, with documentation to support its eligibility for project funding;

3. Planning, design and environmental documents; and
4. Program income data.

These records must be maintained for at least three years after close-out, or until any disputes, such as audit findings, have been resolved. After the three year period, the Applicant must continue to maintain records on principal and interest repayments and loan fee payments of the loan. All records shall be accessible to DOH, EPA and the State Controller.

B. Disputes:

Disputes under this policy are expected to be minimal. Any dispute that is not otherwise resolved shall be referred to the Deputy Director of the DOH, or his designee, for decision. In the event that a DOH decision is not acceptable to a loan recipient, the recipient may appeal to the DOH within 30 days. The Deputy Director will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the DOH Director to review and resolve the dispute.

# **APPENDIX A**

## **SRF DEFINITIONS**

**APPENDIX A**  
**SRF DEFINITIONS**

allowance - an allowance for eligible design costs which is calculated using Table 2 of 40 CFR 35, Subpart I, Appendix B

annual report - DOH annual report to EPA which contains information on how the State has met the goals and objectives of the previous fiscal year, as stated in the IUP and grant agreement, including the SRF financial statements

binding commitment - an executed loan agreement or other legal obligation to provide a SRF loan

capitalization grant - the grant funds EPA has provided to DOH to capitalize the SRF loan program

Clean Water Act, Title II - the statutory authority for the construction grants program

Clean Water Act, Title VI - the statutory authority for the SRF program

construction cut-off date - the date the project is capable of initiating operation, as determined by DOH

contingency - an allowance for eligible change order costs equal to 10% of the eligible construction costs identified in the Preaward Packet

cross-cutters - requirements of federal laws and executive orders that may not be specifically identified in the Clean Water Act, Title VI, but which apply broadly to the federally funded first round projects and a wide range of other federal financial assistance programs

debt services - the amount of money necessary to pay principal and interest on an outstanding SRF loan(s), as identified in each loan amortization schedule

default - failure to make a loan payment

design-build projects - these projects use one contractor to design and build the project. SRF will reimburse 100% of the eligible design and construction costs of the project. Reimbursement of construction costs will be contingent upon the review and approval of the plans and specifications by the DOH.

DOH - Hawaii State Department of Health

enforceable requirements of the Act - provisions of the federal Clean Water Act that, if violated, could result in an administrative or judicial enforcement action

EPA - the United States Environmental Protection Agency

exempt projects - projects or classes of projects which have minimal or no significant effect on the environment (see the OEQC Guidebook and HAR '11-200-8). These projects are exempt from environmental review requirements.

federal fiscal year - October 1 through September 30

final loan agreement - a binding agreement wherein the State commits to funding the Applicant's project since all conditions, as contained in the interim loan agreement, have been completed.

first use - a Clean Water Act requirement that the State use first all funds in the SRF from the capitalization grant, State match, and first round loan repayments for assuring maintenance of progress toward compliance with the enforceable requirements of the Act

initiation of operation - the date specified by the Applicant on which use of the project begins, for the purpose for which it was planned, designed and built

intended use plan (IUP) - a document prepared by DOH each year which identifies the intended uses of the SRF funds and describes how these uses support the goals of the SRF.

interim loan agreement - an agreement between the State and the Applicant wherein the State commits funding an Applicant's project conditioned upon the completion and submittal of all required State Revolving Fund documents.

National Pollutant Discharge Elimination System (NPDES) - a Program operated by the State under delegation from EPA which involves the issuance of permits with specific limitations for discharges into State waters.

nonpoint source (NPS) Pollution - is caused by rainfall runoff or leakage from various storage facilities or sites (such as



construction sites, animal feeding operations, individual wastewater systems, landfill sites, etc.), either above or underground which carry natural or manmade pollutants into surface and groundwater resources.

operating agreement (OA) - the State's basic framework and procedures of the SRF

payment - loan funds paid to the Applicant based on the Applicant's SRF payment request and DOH's eligibility review

project close-out - the final actions taken by DOH and the Applicant to assure satisfactory completion of project work and fulfill administrative requirements, including: financial settlement, submission of final audit resolution, and resolution of any outstanding issues

Priority List - a list of point source and nonpoint source water pollution control projects which are ranked in accordance with their priority to receive funding from the SRF program

repayment - the loan recipient's payment of principal and interest for an SRF loan

SRF - the Water Pollution Control State Revolving Fund, sometimes called the Clean Water State Revolving Fund

state allotment - that portion of the total amount of money appropriated by Congress each Federal fiscal year for wastewater treatment State Revolving Fund Loans, which is specifically designated for use in the State of Hawaii

state fiscal year - July 1 to June 30

state match - the required state contribution of 20% of the federal capitalization grants

state over-match - any state contributions to the SRF, in excess of the required 20% state match

treatment works - a system or devices for the storage, conveyance, treatment, recycling, reclamation, or disposal of municipal sewage, as further defined by 40 CFR 35.2005

water quality standards - standards established by State regulation classifying beneficial uses and prescribing specific allowable limits of constituents in surface waters

## **APPENDIX B**

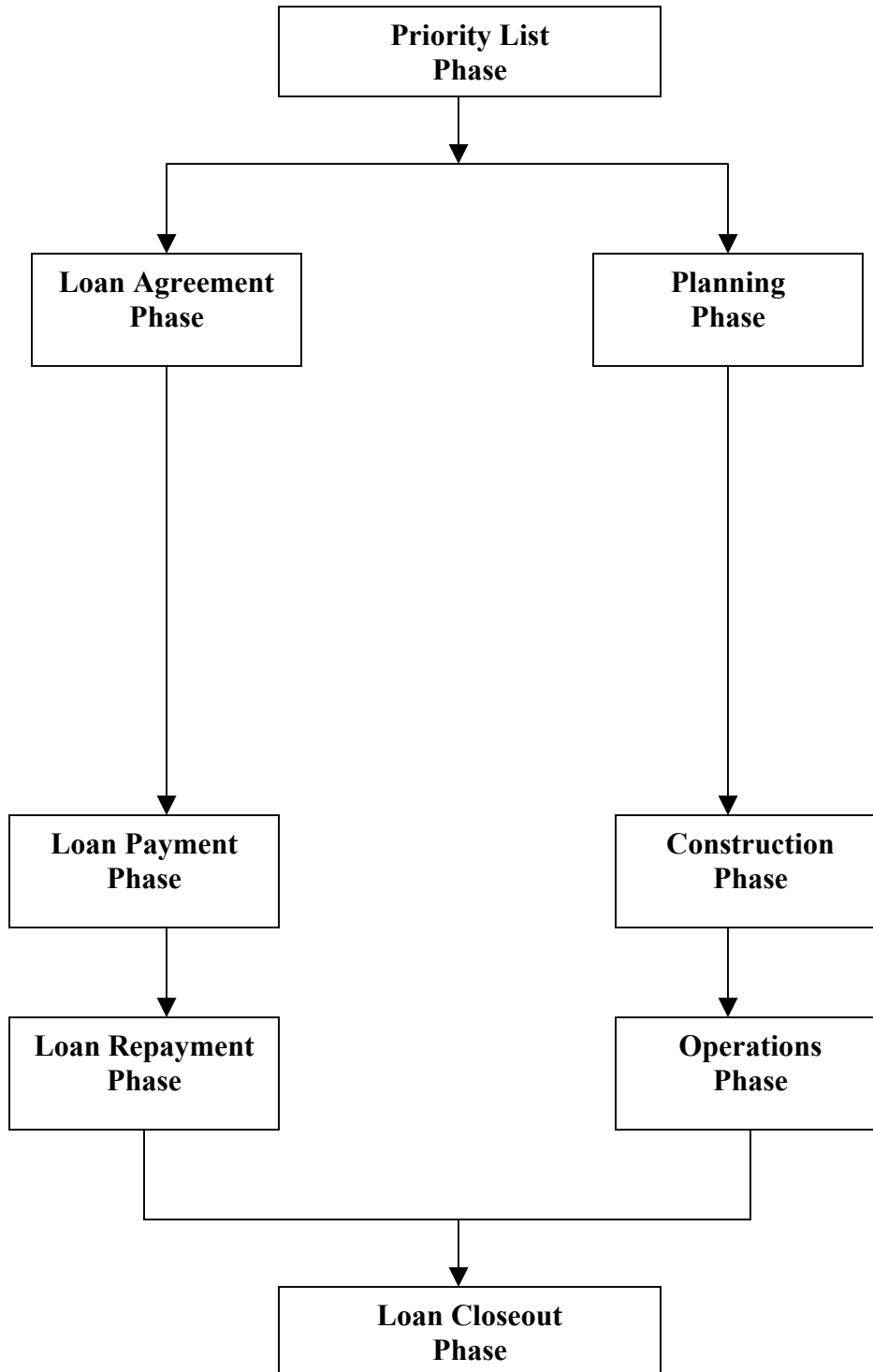
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**APPENDIX C**

**FLOW DIAGRAM OF LOAN PROCEDURES**

**AND SRF QUESTIONS AND ANSWERS**

## CWSRF Process Flowchart



## SRF QUESTIONS AND ANSWERS

1.    **Q       Where does the State Revolving Fund (SRF) come from?**

**A**       The SRF was established by Congress as part of the 1987 Amendments to the Clean Water Act. The loan program was designed to take the place of Construction Grants Program

2.    **Q       How does the SRF program work?**

**A**       Hawaii's program is designed along the same line as the construction grants program. Projects must be on a Priority List based on pollution abatement needs. SRF loans are executed with selected recipients and payments are made on costs incurred.

3.    **Q       What types of projects are qualified to receive loans?**

**A**       Construction of point source water pollution control projects to include wastewater treatment facilities, sewage systems, are qualified. Also the construction of nonpoint source water pollution control projects such as stormwater projects, sewage systems for failing individual wastewater systems (cesspools, septic tanks), and projects to control runoff or leakage from storage facilities and sites are qualified.

4.    **Q       What is the interest rate?**

**A**       Each loan shall bear a simple interest at a rate of two-thirds (2/3) of the bond market prime rate as indicated in the most recent publication of "The Bond Buyer", less a one percent loan fee.

5.    **Q       What is the Payback period?**

**A**       No more than 20-years, with the first repayment due one year after the Notice to Proceed (NTP) or the date of the final loan agreement, whichever is later.

6.    **Q**     **How often must repayments to the loan be made?**
- A**     Semiannually, unless specified otherwise in the loan agreement.
7.    **Q**     **How is interest compounded?**
- A**     Semiannually, unless specified otherwise in the loan agreement
8.    **Q**     **Who can apply?**
- A**     Counties of the State and State agencies, as well as other private parties may apply.
9.    **Q**     **What amount of SRF assistance will be provided?**
- A**     Up to 100% of eligible costs will be provided for each project. Future years assistance will be dependent upon the availability of the State and Federal funds and project needs.
10.   **Q**     **When does payback start?**
- A**     The first principal and interest repayment must be made within one year following Notice to Proceed (NTP) or the date of the final loan agreement, whichever is later. Loan pre-payments may be made only with the Director's prior approval.
11.   **Q**     **When does interest start?**
- A**     Interest is accrued during project development. Interest starts accruing the day the State issues a warrant or check to the Applicant for the loan project.
12.   **Q**     **Is 100 percent of the project cost eligible?**
- A**     Only project costs which meet the Allowable Cost Criteria are eligible for SRF loans. 100% of these costs are eligible for SRF funding.
13.   **Q**     **Can one year's loan recipient receive a loan in subsequent years?**
- A**     Yes.

14. **Q** Can a loan be made for non-eligible portions of previously funded grant projects?
- A** No.
15. **Q** Can an amendment to the loan amount be made?
- A** The Director may approve an amendment to a loan amount, depending on the availability of funds and the priority of the increase in project costs.
16. **Q** Is interim financing necessary?
- A** No, however, loan payments for incurred cost may be made monthly.
17. **Q** What is "State Match"?
- A** The State must provide a 20 percent match to Federal dollars received in a Capitalization Grant.
18. **Q** How will payments be made?
- A** Payments to the Applicant will be made for eligible costs incurred upon receipt of proper and acceptable monthly payment requests. Requests must include contractor's claims and estimate of percent of completion of the project.
19. **Q** Which agencies are involved in administering the SRF program?
- A** The Wastewater Branch of the Environmental Management Division of the Department of Health is responsible for the overall management and implementation of the SRF Program. Financial and fiscal assistance is provided by the Administrative Services Office of the Department of Health. Department of Budget and Finance is responsible for managing the investment of the balance in the State Revolving Fund account. Department of Accounting and General Services is responsible for certification and disbursement of State funds.

20. **Q** Do the sources of funding (i.e., federal or state) determine the requirements that apply to the projects?
- A** No. All SRF projects must fulfill all the necessary requirements.
21. **Q** What are these additional federal requirements?
- A** There are some federal cross-cutting as well as environmental review requirements. Also, refer to Title 40 of the Code of Federal Regulations, Part 35, Subpart K.
22. **Q** Do Davis-Bacon wage rates apply?
- A** At the present time, Davis-Bacon wage rates do not apply to SRF projects. However, this could change and DOH will keep all Applicants up to date on this issue.
23. **Q** Will interagency service agreements be required for SRF projects involving two or more government agencies?
- A** Yes, for the safety of all parties, including the SRF. For example, should a wastewater project serve the areas which are part of the jurisdictions belonging to a federal agency or a state agency, an interagency agreement is required to delineate the share of project costs and the responsibilities of the operation and maintenance.



## **APPENDIX D**

### **PROPOSED PROJECT FOR SRF FUNDING FORM**

## PROPOSED PROJECT FOR SRF FUNDING FORM

Fiscal Year 20\_\_\_\_

Project Title: \_\_\_\_\_

County/Applicant: \_\_\_\_\_ Project No.: \_\_\_\_\_

Project Description: \_\_\_\_\_

Check the appropriate line for each category which best describes the project:

Project Type:

Project Function:

\_\_\_\_\_ T1. Project required by DOH compliance  
action, audit, or special loan condition.

\_\_\_\_\_ F1. To build a new treatment facility or control project.

\_\_\_\_\_ T2. Eliminates documented health hazards.

\_\_\_\_\_ F2. To expand, add capacity,  
To upgrade an existing  
Facility or control project.

\_\_\_\_\_ T3. Corrects surface water quality impairment or eliminates/prevents ground water contamination.

\_\_\_\_ F3. To modify, replace, or repair existing facility or control project (does not add to capacity).

\_\_\_\_ T4. To meet requirements for wastewater  
Or sludge reclamation or reuse.

\_\_\_\_ F4. To purchase equipment.

\_\_\_\_\_ T5. Necessary to accommodate population growth.

T6. Other needs:

Estimated Cost: \_\_\_\_\_

Estimated Start Date: \_\_\_\_\_

[illegible]

### Rank Evaluation (by DOH)

Point Total: \_\_\_\_\_

## **APPENDIX E**

### **PRIORITY SYSTEM POLICIES**

## HAWAII DEPARTMENT OF HEALTH

### PRIORITY SYSTEM POLICIES

#### I. GENERAL POLICY

The State priority system describes the criteria and method used to classify or rank wastewater pollution control projects considered eligible for SRF assistance. It is the policy of the Department of Health (DOH) to give high priority to projects that will result in optimum water quality management, consistent with the public health and water quality goals and requirements of the Federal Clean Water Act and Hawaii Revised Statutes.

Along with the funding of projects to improve and preserve the quality of surface waters in the State, added attention has been given in recent years to the elimination or prohibition of subsurface wastewater disposal systems (such as cesspools and injection wells) within the critical wastewater disposal areas ("no-pass" zones) on each island. Nonpoint Source (NPS) pollution projects dealing with stormwater, runoff and other leakage problems are also evaluated.

Projects to accommodate population growth are also of high priority. However, when funds are limited, compliance type projects will take precedence. The ranking of projects within the State priority system will reflect these goals.

Generally, proposed projects will be given consideration for priority and ranked in the following order:

- Type 1. Project involves treatment works under audit or under special loan conditions.
- Type 2. Project necessary to eliminate documented health hazards. Treatment works may be under DOH compliance action.
- Type 3. Project necessary to correct surface water quality impairment, to prevent or eliminate ground water contamination.
- Type 4. Project necessary to meet requirements for wastewater or sludge reclamation and reuse.
- Type 5. Project necessary to accommodate population growth.
- Type 6. Project needs refinancing, or to address other needs.

Consideration will also be given other factors of the proposed project such as project function (see Appendix D, Proposed Project for SRF Funding Form). Upon completion of the proposed SRF project priority list, DOH will use it in preparing the Intended Use Plan (IUP). DOH will provide a public notice to solicit comments and encourage public participation. DOH will consider all public comments to the IUP and will make revisions, as necessary. The final IUP will be sent to the Applicants and EPA.

## II. PROJECT PRIORITY LIST DEVELOPMENT

The determination of project priority is a two-step process. First, the proposed projects are grouped by Project Type and Project Function (see Part I, General Policy) to establish their significance relative to the goals of the Clean Water Act and the Hawaii Revised Statutes, and are then ranked.

Second, the projects are then selected based upon their point totals, readiness for construction, and the estimated SRF funding available for the current fiscal year.

## III. PRIORITY LIST MANAGEMENT

DOH will maintain as stable a priority list as possible to ensure funding availability for the top ranked projects on the list. Additions or modifications that will significantly alter the list after its adoption will not be made unless it is absolutely necessary.

If additional SRF funds become available during the year, projects will be chosen from the priority list for funding. Projects on the priority list may be bypassed if the project will not be ready to proceed when funding is available. A bypassed project will be replaced by a project from the list that is ready to proceed during the current funding year.

**TIMELINE OF CRITICAL DATES**  
**FOR THE PRIORITY LIST/  
INTENDED USE PLAN PROCESS**

October 15:

DOH requests the Applicant to submit a list of proposed projects to be included on the Priority List (PL) and the Intended Use Plan (IUP).

November 15:

Applicant submits their list of proposed projects to DOH to be included in the PL and IUP.

December 1:

DOH prepares a draft Priority List and IUP, and publishes a public notice that the IUP is available for public comment.

January 1 - February 1:

Public review period for the PL/IUP.

February 15:

PL and IUP are finalized.

June 30:

Last day for DOH and EPA to negotiate the capitalization grant agreement based in part on the PL/IUP.

July 1 - July 30:

Capitalization grant application is revised if necessary.

August 1:

Deadline for submittal of capitalization grant application to EPA:

October 15:

EPA issues capitalization grant to DOH.

## **APPENDIX F**

### **PROJECT REPORT CRITERIA**

**WASTEWATER BRANCH  
HAWAII DEPARTMENT OF HEALTH**

**PROJECT REPORT CRITERIA**

The Project Report should describe the scope of the project and provide as much information necessary to address the following criteria:

1. A statement of the project needs and benefits, including a discussion of the water quality benefits and/or public health problems to be corrected.
2. A description of the proposed pollution control project and the waste treatment system of which it is a part (if applicable).
3. An evaluation of the alternatives considered to address the project needs.
4. A description of the selected alternative and the relevant design criteria used.
5. Cost information on the estimated total capital costs and annual operation and maintenance costs for the project (if applicable).
6. An evaluation of the impact of the project on the water supply (if applicable).
7. An evaluation of the opportunities to reclaim or reuse treated wastewater, nonpoint source pollution control project waters, or sludge material resulting from the project.



## **APPENDIX G**

### **ENVIRONMENTAL ASSESSMENT DOCUMENTS CRITERIA**

**WASTEWATER BRANCH  
HAWAII DEPARTMENT OF HEALTH**

**ENVIRONMENTAL ASSESSMENT DOCUMENTS CRITERIA**

The Environmental Assessment Documents (EADs) submitted for any SRF project will address the following criteria:

**A. OEQC CRITERIA:**

A current Environmental Assessment (EA) of the proposed project that meets the requirements of HAR 11-200-10. (For guidance, see OEQC Guidebook, Chapter VI-B, EA Content Requirements, Items (1)-(9).)

**B. SERP CRITERIA:**

The Environmental Assessment should also address the following areas to meet SERP requirements:

1. Population projections shall conform to or be derived from the latest population projection series developed by the State Department of Business, Economic Development and Tourism (DBEDT).
2. A range of feasible alternatives shall be considered to include the "no action" alternative.
3. The analysis of alternatives and impacts shall include:
  - a. the primary and secondary (direct and indirect) impacts for all feasible alternatives (to include the "no action" alternative);
  - b. the impacts on social parameters such as land use, recreation and open-space opportunities;
  - c. the cumulative impacts such as anticipated community growth (residential, commercial, institutional, and industrial) within the project and study area;
  - d. the impacts on other anticipated public works projects (if any) and the planned coordination with them;

- e. the impacts on any individual sensitive environmental issues that have been identified through the public participation program.

C. FEDERAL CRITERIA:

Federal Funding Notice - for all SRF projects, the Environmental Assessment must include the following statement:

**"This project may be funded by Federal Funds through the State of Hawaii's Clean Water State Revolving Fund (SRF) Program, which would constitute a federal action, and will require the project to meet all NEPA and Hawaii SRF program requirements."**

This statement must also be included in the notice published in the OEQC newsletter, The Environmental Notice, or in the community newspaper.

Cross-cutting Authorities - for all SRF projects, the Environmental Assessment must also address the impacts of the proposed project on other Federal "cross-cutting" authorities, as applicable, to include the:

1. Archeological and Historic Preservation Act (16 U.S.C. §469a-1)
2. Clean Air Act (42 U.S.C. §7506(c))
3. Coastal Barrier Resources Act (16 U.S.C. §3501)
4. Coastal Zone Management Act (16 U.S.C. §1456(c)(1))
5. Endangered Species Act (16 U.S.C. §1536(a)(2) and (4))
6. Environmental Justice, (Executive Order 12898)
7. Essential Fish Habitat Consultation Process under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801)
8. Farmland Protection Policy Act (7 U.S.C. §4202(B))
9. Fish and Wildlife Coordination Act (16 U.S.C. §662(a))
10. Floodplain Management (42 U.S.C. §4321)
11. National Historic Preservation Act (16 U.S.C. §470(f))
12. Safe Drinking Water Act (42 U.S.C. §300f)
13. Protection of Wetlands (42 U.S.C. §4321)
14. Wild and Scenic Rivers Act (16 U.S.C. §1271)

#### D. PRIOR-DECISION DOCUMENTS:

Prior-decision documents (EA, EIS, FNSI, Reaffirmations, Negative Declarations) may be submitted. (Documents older than five years must be reaffirmed by the Applicant.) These documents may include the proposed project as part of a larger "parent" project.

Any prior-decision document submitted must contain information applicable and pertinent to the proposed project, and have logical relevancy to and bearing on the action being proposed. In particular, the scope of the proposed project must be substantially similar to the project identified in the prior decision document. All prior-decision documents must be re-evaluated by the County as outlined in Appendix H (SERP).

When prior-decision documents are submitted, an evaluation of the current environmental impacts of the proposed project must be conducted. New impacts not addressed in the prior-decision documents must be addressed in the current EA. If it is determined there are no new impacts, then the current EA need not be an extensive document.

#### E. EA CHECKLIST AND CERTIFICATION FORM:

The applicant must complete and sign the attached EA Checklist and Certification form for each proposed project.

#### F. EXEMPT PROJECTS CERTIFICATION FORM:

The applicant must complete and sign the attached Exempt Projects Certification Form.

## ENVIRONMENTAL ASSESSMENT CHECKLIST AND CERTIFICATION

PROJECT NUMBER: \_\_\_\_\_  
(Applicant) (State)

ENVIR. ASSESSMENT SUBMITTED: -----

PRIOR DECISION DOC'T SUBMITTED: -----

|                               |       |       |
|-------------------------------|-------|-------|
| (1) ID of applicant:          | ----- | ----- |
| (2) ID of approv agency:      | ----- | ----- |
| (3) Agencies consulted:       | ----- | ----- |
| (4) Descrip. of proj. char:   | ----- | ----- |
| (5) Descrip. of envir:        | ----- | ----- |
| (6) Impacts and alternatives: | ----- | ----- |
| (7) Mitigation measures:      | ----- | ----- |
| (8) Determination:            | ----- | ----- |
| (9) Findings and reasons:     | ----- | ----- |

1. Population projections current: -----

|  |       |       |
|--|-------|-------|
| 2. "No-action" alternative:            | ----- | ----- |
| =====                                  |       |       |
|  | YES   | NO    |
| =====                                  |       |       |
| 3. Impacts analysis addresses:         |       |       |
| a. prim & sec impacts:                 | ----- | ----- |
| b. social parameters:                  | ----- | ----- |
| c. cumulative impacts:                 | ----- | ----- |
| d. other projects:                     | ----- | ----- |
| e. sensitive issues:                   | ----- | ----- |
| <br><u>C. CROSS CUTTERS ADDRESSED:</u> |       |       |
| 1. Arch & Hist Pres Act:               | ----- | ----- |
| 2. Clean Air Act:                      | ----- | ----- |
| 3. Coastal Barrier Resources Act:      | ----- | ----- |
| 4. Coastal Zone Mang. Act:             | ----- | ----- |
| 5. Endangered Spec Act:                | ----- | ----- |
| 6. Environmental Justice:              | ----- | ----- |
| 7. Essential Fish Habitat:             | ----- | ----- |
| 8. Farmland Prot Act:                  | ----- | ----- |
| 9. Fish & Wildlife Act:                | ----- | ----- |
| 10. Floodplain Mang EO:                | ----- | ----- |
| 11. Nat Hist Pres Act:                 | ----- | ----- |
| 12. Safe Drink Water Act:              | ----- | ----- |

13. Prot of Wetlands EO: -----

14. Wild and Scenic Rivers Act: -----

CERTIFICATION: (County certifies that it has conducted a current assessment of the environmental impacts of the proposed project, and has disclosed, in the Environmental Assessment Documents referred to in this checklist, all known significant environmental impacts of the proposed project.)

|                    |                |               |
|--------------------|----------------|---------------|
| _____<br>Signature | _____<br>Title | _____<br>Date |
|--------------------|----------------|---------------|

**PROJECT NAME:** \_\_\_\_\_

---

\_\_\_\_\_

**EXEMPTION CLASS NO.** \_\_\_\_\_

**EXEMPTION LIST DATE:** \_\_\_\_\_

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Signature

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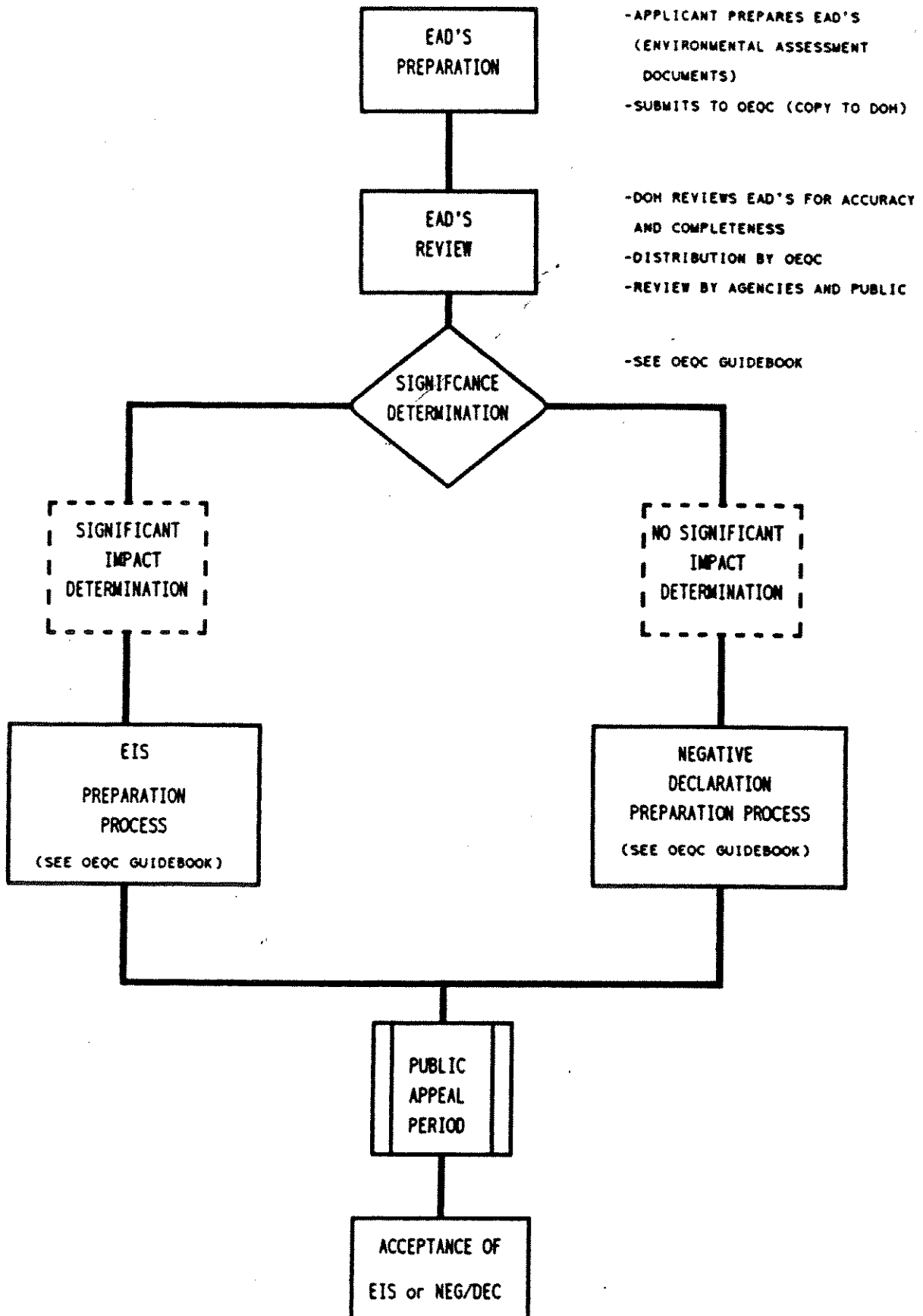
Date



## **APPENDIX H**

### **STATE ENVIRONMENTAL REVIEW PROCESS (SERP)**

# SERP GENERAL FLOWCHART



HAWAII DEPARTMENT OF HEALTH

STATE ENVIRONMENTAL REVIEW PROCESS (SERP)  
FOR SRF PROJECTS

1. For all projects, the Applicant will comply with the environmental review process as defined by HRS Chapter 343 and HAR Chapter 11-200. For guidance, the Applicant should refer to A Guidebook for the Hawaii State Environmental Review Process, August, 1992, as prepared by the Hawaii Office of Environmental Quality Control (OEQC).
2. The Applicant shall address the SERP Criteria as found in Appendix G (Environmental Assessment Documents Criteria).
3. The Applicant shall address the Federal Criteria as found in Appendix G. The Federal Funding Notice must be included in the Environmental Assessment and must be included in the notice published in the OEQC newsletter (The Environmental Notice), or in the community newspaper.

The Federal Funding Notice is as follows:

**"This project may be funded by Federal Funds through the State of Hawaii's Clean Water State Revolving Fund (SRF) Program, which would constitute a federal action, and will require the project to meet all NEPA and Hawaii SRF program requirements."**

4. The Applicant will provide a copy of the Environmental Assessment (and any prior-decision documents and reaffirmations) to the Department of Health no later than the day the Applicant provides those documents to the OEQC.
5. The Applicant will provide a copy of the Notice of Determination to the Department of Health no later than the day the Applicant provides that document to the OEQC.
6. The Applicant will provide a copy of the Environmental Impact Statement (EIS) or the Negative Declaration (NEGDEC) to the Department of Health no later than the day the Applicant provides those documents to the OEQC.
7. To encourage public participation in all projects, the Applicant must give public notice of all environmental assessment determinations either in the community newspaper or in the OEQC newsletter. For projects whose environmental

documents were developed within the past five years, the notice within the OEQC newsletter is an acceptable public notice. However, this public notice shall not change any deadline for public comment or lawsuits under the procedures specified in HRS Chapter 343 or HAR Chapter 11-200. For any EIS, the Applicant must hold a public meeting for the project.

8. The SERP will be documented by the use of DOH review forms. At the completion of the review process, the DOH will send the Planning Documents approval letter to the Applicant to delineate any deficiencies, explain any mitigation measures which will be included as special conditions on the loan agreement, and approve all of the project planning documents.
9. The DOH reserves the right to refuse any SRF loan to any Applicant if, for any reason, it feels that the proposed project has the potential to impact on the environment in ways that the Applicant has not considered or has not prepared mitigation measures for.

## **APPENDIX I**

### **ALLOWABLE COST CRITERIA & DESIGN ALLOWANCE TABLE**

**WASTEWATER BRANCH  
HAWAII DEPARTMENT OF HEALTH**

**ALLOWABLE COST CRITERIA**

- A. During the Plans and Specifications review, project cost items will be assessed for allowability. In order to be considered allowable, all costs must meet the criteria listed below.
1. Be necessary and reasonable for the proper and efficient administration of the loan project, be allocable to the project, and not be a general expense required to carry out the overall responsibilities of the applicant.
  2. Be authorized or not prohibited under State or County law, regulations or ordinances.
  3. Be consistent with policies, regulations and procedures that apply to both federal or state activities.
  4. Be accorded consistent treatment through the application of generally accepted accounting principles appropriate to the circumstances.
  5. Not be allocable to, or included as, a cost of any other federal or state financed program.
- B. Unallowable costs are those which do not meet the general criteria listed above. For example:
1. Costs outside the scope of the approved project.
  2. Costs caused by the applicant's mismanagement.
  3. Costs caused by the applicant's vicarious liability for the improper actions of others.
  4. Bonus payments, not legally required, for completion of a project before a contractual completion date.
  5. Additional costs (e.g., building, engineering, legal, or administrative) incurred because of a contractor's lack of timely performance. These costs are assumed to be offset by liquidated damages, even in the event the applicant elects not to exercise its right to recover liquidated damages, or the liquidated damages are insufficient to cover the applicant's additional costs.

6. Costs to provide additional professional liability insurance for a specific project, beyond that which is normally carried by a contractor.
7. Costs of local travel and commuting expenses between living quarters and the construction site for persons employed by either the applicant or the contractor.
8. Costs for small and onsite systems which include:  
(a) modification to physical structure of homes or commercial establishments; (b) conveyance pipes from the house to the treatment unit located on a user's property; and, (c) wastewater generating fixtures such as commodes, sinks, tubs, and drains.
9. Costs of land acquisition (including associated legal, administrative and engineering costs) of sewer rights-of-way, waste treatment plant sites (including small system sites), sanitary landfill sites and sludge disposal areas. However, the cost of land that will be an integral part of the treatment process or pollution control project or that will be used for the ultimate disposal of residues resulting from such treatment or pollution control may be allowable. Land acquisition costs necessary to comply with the requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as implemented by EPA under 40 CFR Part 4, also may be allowable.
10. Ordinary operating expenses of the applicant including salaries and expenses of elected and appointed officials and preparation of routine financial reports and studies.
11. Administrative, engineering and legal activities associated with the establishment of special departments, agencies, commissions, regions, districts or other units of government.
12. Costs of approval, preparation, issuance and sale of bonds or other forms of indebtedness required to finance the project and the interest on them.
13. Costs of replacing, through reconstruction or substitution, a treatment works that was assisted under the Clean Water Act (Pub. L. 92-500), as amended, and that fails to meet its project performance standards. This provision applies to failures that occur either before or after the initiation of operation. This provision does not apply to an innovative and alternative treatment works eligible for funding or a

treatment works that fails before its design life.

14. Personal injury compensation or damages arising out of the project.
15. Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations or procedures.
16. Travel not directly related to a specific project, such as travel to professional meetings, symposia, technology transfer seminars, lectures, etc..
17. Costs of preparing a corrective action report for a project that does not meet the project performance standards.
18. Administrative costs of salaries, benefits, and expendable materials the applicant incurs for the project.
19. Construction costs incurred after the construction cut-off date.



# **DESIGN ALLOWANCE TABLE**

To calculate the design allowance, multiply the estimated eligible construction cost by the design allowance percentage. (Interpolate between design allowance values, based on the specific estimated eligible construction cost.)

| <u>Estimated Eligible<br/>Construction Cost</u> | <u>Allowance<br/>(%)</u> |
|---|--------------------------|
| \$ 100,000 or less . .                          | 8.5683                   |
| 120,000 . . . . .                               | 8.3808                   |
| 150,000 . . . . .                               | 8.1570                   |
| 175,000 . . . . .                               | 8.0059                   |
| 200,000 . . . . .                               | 7.8772                   |
| 250,000 . . . . .                               | 7.6668                   |
| 300,000 . . . . .                               | 7.4991                   |
| 350,000 . . . . .                               | 7.3602                   |
| 400,000 . . . . .                               | 7.2419                   |
| 500,000 . . . . .                               | 7.0485                   |
| 600,000 . . . . .                               | 6.8943                   |
| 700,000 . . . . .                               | 6.7666                   |
| 800,000 . . . . .                               | 6.6578                   |
| 900,000 . . . . .                               | 6.5634                   |
| 1,000,000 . . . . .                             | 6.4300                   |
| 1,200,000 . . . . .                             | 6.3383                   |
| 1,500,000 . . . . .                             | 6.1690                   |
| 1,750,000 . . . . .                             | 6.0547                   |
| 2,000,000 . . . . .                             | 5.9574                   |
| 2,500,000 . . . . .                             | 5.7983                   |
| 3,000,000 . . . . .                             | 5.6714                   |
| 3,500,000 . . . . .                             | 5.5664                   |
| 4,000,000 . . . . .                             | 5.4769                   |
| 5,000,000 . . . . .                             | 5.3306                   |
| 6,000,000 . . . . .                             | 5.2140                   |
| 7,000,000 . . . . .                             | 5.1174                   |
| 8,000,000 . . . . .                             | 5.0352                   |
| 9,000,000 . . . . .                             | 4.9637                   |
| 10,000,000 . . . . .                            | 4.9007                   |
| 12,000,000 . . . . .                            | 4.7935                   |
| 15,000,000 . . . . .                            | 4.6655                   |
| 17,500,000 . . . . .                            | 4.5790                   |
| 20,000,000 . . . . .                            | 4.5054                   |
| 25,000,000 . . . . .                            | 4.3851                   |
| 30,000,000 . . . . .                            | 4.2892                   |

## **APPENDIX J**

### **LOAN APPLICATION (Sample)**

**APPLICATION FOR STATE REVOLVING FUND LOAN  
for the Construction of Wastewater Treatment Facilities**

A completed application must be submitted for each proposed project. If any information requested in this application was previously submitted for a prior loan or grant project, please indicate the project number in the space provided. Provide supporting documentation or additional pages as appropriate.

**I. ORGANIZATIONAL DATA**

Applicant Name: \_\_\_\_\_

Address:

Contact person: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**II. PROJECT NAME AND DESCRIPTION**

Project Name: \_\_\_\_\_

Description:

**III. PROJECT NEED AND ENVIRONMENTAL BENEFITS**

A. Need for Project:

### III. PROJECT NEED AND ENVIRONMENTAL BENEFITS (Cont.)

#### B. Project Environmental Benefits:

1. This project will contribute to water quality by:  
☐ Improving it    ☐ Maintaining it    ☐ N/A
2. This project will allow the facility/system to:  
☐ Achieve compliance    ☐ Maintain compliance    ☐ N/A
3. This project involves a facility/system that discharges to a waterbody that is:  
  
☐ Meeting standards    ☐ Impaired    ☐ Threatened  
☐ Not Assessed    ☐ N/A
4. This project will allow the facility/system to:  
☐ Protect public health    ☐ Restore public health  
☐ N/A
5. This project will allow the facility/system to prevent wastewater spills to the:  
☐ Ground    ☐ Surface Waters    ☐ N/A
6. This project involves other environmental benefits noted below:

#### IV. PROJECT COSTS

Attach the engineer's estimate of total project costs, if it differs from the estimate submitted with the planning and design documents.

|       |  |
|-------|--|
| _____ | Estimated Total Project Costs Proposed |
| _____ | method of financing:                   |
| _____ | SRF Loan Requested                     |

Amount and source of all other revenue:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

#### V. PROJECT SCHEDULE DATES

|       |   |
|-------|---|
| _____ | Advertise for construction bids         |
| _____ | Open construction bids                  |
| _____ | Negotiate A/E agreement(s)              |
| _____ | Award construction and/or A/E contracts |
| _____ | Issue Notice to Proceed                 |
| _____ | Complete construction                   |

#### VI. RELATED PROJECTS

List all related sewer projects which must be constructed in order to fully utilize the subject project. Also, list the anticipated dates these projects will be constructed.

**VII. REQUIRED DOCUMENTS AND FORMS** Note: Documents and forms **MUST** be completed and submitted to DOH before the execution of the final agreement.

1. If completed, attach the documents listed below.
  - a. A resolution or ordinance passed by the County Council which authorizes the SRF loan application and identifies the dedicated source(s) of revenue (i.e., general obligation bonds) which will fund the project and repayment of the loan with interest.
  - b. An opinion signed by a competent title counsel describing the interest the applicant has in the site, including information about any easements and right-of-ways, and certifying that interest is legal and valid. The opinion should also include information as to whether or not:
    - 1) The applicant (or the present owner if fee simple title has not been, or is not to be, acquired) has good and valid title to the entire site (excluding easements and right-of-ways) free and clear of any pre-existing mortgages, deeds of trust, liens, or other encumbrances which would affect the value or site usefulness for the purpose intended;
    - 2) Any deeds or documents required to be recorded have been duly recorded or filed for record, whenever necessary, in order to protect the title of the owner and the interest of the applicant; and,
    - 3) The applicant has complied with the 1970 Uniform Relocation Assistance and Real Property Acquisition Policies Act, if necessary.
  - d. Any inter-governmental or County-private agreements relative to this project.
- \*2. For federally-funded projects, complete the attached forms:
  - \*a. Compliance Report, (EPA form 4700-4); and
  - \*b. Applicant's Certification Regarding Debarment, Suspension, and Other Responsibility Matter (EPA form 5700-49).

## VIII. ASSURANCES

The applicant certifies that

\_\_\_\_\_  
(name of legal entity)

1. Has the legal, institutional, managerial and financial capability to ensure adequate construction, and operation and maintenance (including replacement) of the wastewater treatment works, and has analyzed the local share of the costs of the proposed wastewater treatment facilities, including the financial impact on each community and the residents of the service areas; and,
2. Will operate and maintain the publicly-owned treatment works in accordance with the minimum standards as required by the cognizant Federal, State and local agencies for the operation and maintenance of such facilities; and/or in accordance with any applicable National Pollutant Discharge Elimination System (NPDES) permit; and,
3. Will initiate procurement action for A/E and/or construction services for building all significant elements of the project in accordance with the project schedule indicated in this application and approved by DOH upon issuance of the loan agreement; and,
4. Will diligently pursue project completion in accordance with the project schedule submitted herewith; and,
5. Will give the State of Hawaii or its assignees, through any authorized representative, access and the right to examine all records, books, papers, or documents related to the loan; and will retain all construction records for three years following the project initiation of operation; and,
6. Will maintain a financial accounting system in accordance with the generally accepted accounting principles set forth by the Governmental Accounting Standards Board; and,
7. Will not dispose of, or modify the use of or change the real property title terms or other interest in the site and facilities without permission and instructions from DOH; and,
8. Will establish safeguards to prohibit employees from using their positions for purposes that constitute or give the appearance of personal or organizational conflict of interest; and,
9. Has not and will not violate any Federal, State, or local law pertaining to fraud, bribery, graft or collusion; and,

10. Will provide and maintain competent and adequate engineering supervision and inspection at the construction sites to ensure that the completed work conforms with the approved plans and specifications and will furnish progress reports and such other information as DOH may require; and,
11. Will comply with all applicable federal and state requirements, including all other laws, regulations, policies, applicable requirements and conditions relating to assistance for this project.
12. The applicant must certify that it will comply with the following federal "cross-cutting" authorities, as applicable, including the Single Audit of 1984 (PL 98-502).

\*a. Environmental Authorities

- \*1) Archeological and Historic Preservation Act (PL 93-291, as amended)
- \*2) Clean Air Act (PL 84-159, as amended)
- \*3) Coastal Barrier Resources Act (PL 97-348)
- \*4) Coastal Zone Management Act (PL 95-95, as amended)
- \*5) Endangered Species Act (PL 93-205, as amended)
- \*6) Environmental Justice (EO 12898)
- \*7) Essential Fish Habitat Consultant Process under Magnuson-Stevens Fishery Conservation and Management Act (PL 94-265)
- \*8) Farmland Protection Policy Act (PL 97-98)
- \*9) Fish and Wildlife Coordination Act (PL 85-624, as amended)
- \*10) Floodplain Management (EO 11988, as amended by EO 12148)
- \*11) National Historic Preservation Act (PL 89-665, as amended)
- \*12) Protection of Wetlands (EO 11990, as amended by EO 12608)
- \*13) Safe Drinking Water Act (PL 89-523, as amended)
- \*14) Wild and Scenic Rivers Act (PL 90-542)



\*b. Social Policy Authorities

- \*1) Age Discrimination Act of 1975 (PL 94-135)
- \*2) Civil Rights Act of 1964, Title VI (PL 88-352)
- \*3) Equal Employment Opportunity (EO 11246, as amended)
- \*4) Promoting the Use of Minority and Women-owned Businesses (EO 11625, 12138 and 12432)
- \*5) Federal Water Pollution Control Act Amendments of 1972, Section 13 (PL 92-500, the Clean Water Act)
- \*6) Rehabilitation Act 1973, Section 504 (PL 93-112)
- \*7) Small Business Administration Reauthorization and Amendment Act of 1988 (PL 100-590), Section 129
- \*8) Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (PL 102-389)

\*c. Economic Policy Authorities

- \*1) Procurement Prohibitions (EO 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act)
- \*2) Demonstration Cities and Metropolitan Development Act (PL 89-754, as amended)

\*d. Miscellaneous Authorities

- \*1) Debarment and Suspension (EO 12549)
- \*2) Preservation of Open Competition and Government Neutrality Towards Contractor's Labor Relations on Federal and Federally Funded Construction Projects (EO 13202, as amended by EO 13208)
- \*3) Uniform Relocation Assistance and Real Property Acquisition Act (PL 91-646, as amended)

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**CERTIFICATION**

NOTE: This certification includes item 12 and all its subparts.


To the best of my knowledge: the data in this application is true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the assurances, if the assistance is approved.

---

| Legal Entity | Name and Title of Authorized Representative |
|--------------|---|
|--------------|---|

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| Signature of Authorized Representative | Date |
|--|------|
|--|------|

|  |                                  |  |
|--|----------------------------------|--|
|  <div style="display: inline-block; vertical-align: middle; margin-left: 10px;"> <b>United States Environmental Protection Agency</b><br/> <b>Washington, DC 20460</b><br/> <b>Preaward Compliance Review Report For</b><br/> <b>All Applicants Requesting Federal Financial Assistance</b> </div> |                                  | <b>FORM Approved</b><br><b>OMB No. 2090-0014</b> |
| <b>Note: Read instructions on reverse side before completing form.</b>   |                                  |  |
| I. A. Applicant (Name, City, State)  | B. Recipient (Name, City, State) | C. EPA Project No.                               |
| II. Brief description of proposed project, program or activity.  |                                  |  |
| III. Are any civil rights lawsuits or complaints pending against applicant and/or recipient?<br>If "Yes," list those complaints and the disposition of each complaint. <div style="text-align: right;"> <input type="checkbox"/> Yes   <input type="checkbox"/> No         </div>  |                                  |  |
| IV. Have any civil rights compliance reviews of the applicant and/or recipient been conducted by any Federal agency during the two years prior to this application for activities which would receive EPA assistance?<br>If "Yes," list those compliance reviews and status of each review. <div style="text-align: right;"> <input type="checkbox"/> Yes   <input type="checkbox"/> No         </div>             |                                  |  |
| V. Is any other Federal financial assistance being applied for or is any other Federal financial assistance being applied to any portion of this project, program or activity?<br>If "Yes," list the other Federal Agency(s), describe the associated work and the dollar amount of assistance. <div style="text-align: right;"> <input type="checkbox"/> Yes   <input type="checkbox"/> No         </div>         |                                  |  |
| VI. If entire community under the applicant's jurisdiction is not served under the existing facilities/services, or will not be served under the proposed plan, give reasons why.  |                                  |  |
| VII. Population Characteristics  |                                  | Number of People                                 |
| 1.A. Population of Entire Service Area   |                                  |  |
| B. Minority Population of Entire Service Area  |                                  |  |
| 2.A. Population Currently Being Served   |                                  |  |
| B. Minority Population Currently Being Served  |                                  |  |
| 3.A. Population to be Served by Project, Program or Activity   |                                  |  |
| B. Minority Population to be Served by Project, Program or Activity  |                                  |  |
| 4.A. Population to Remain Without Service  |                                  |  |
| B. Minority Population to Remain Without Service   |                                  |  |
| VIII. Will all new facilities or alterations to existing facilities financed by these funds be designed and constructed to be readily accessible to and usable by handicapped persons?<br>If "No," explain how a regulatory exception (40 CFR 7.70) applies. <div style="text-align: right;"> <input type="checkbox"/> Yes   <input type="checkbox"/> No         </div>  |                                  |  |
| IX. Give the schedule for future projects, programs or activities (or of future plans), by which service will be provided to all beneficiaries within applicant's jurisdiction. If there is no schedule, explain why.  |                                  |  |
| X. I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.  |                                  |  |
| A. Signature of Authorized Official  | B. Title of Authorized Official  | C. Date  |
| <b>For the U.S. Environmental Protection Agency</b>  |                                  |  |
| <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved   | Authorized EPA Official          | Date   |

## Instructions General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act goes on to explain that the title shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified handicapped individual shall solely by reason of handicap be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of handicap is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person on the basis of sex shall be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer certain questions, EPA program officials should be contacted for clarification.

EPA Form 4700-4 (Rev. 1/90) Reverse

## ITEMS

- IA. "Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance.
- IB. "Recipient" means any entity, other than applicant, which will actually receive EPA assistance.
- IC. Self-explanatory.
- II. Self-explanatory.
- III. "Civil rights lawsuits" means any lawsuit or complaint alleging discrimination on the basis of race, color, national origin, sex, age or handicap pending against the applicant and/or entity which actually benefits from the grant. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.
- IV. "Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age or handicap. If any part of the review covered the entity which will actually benefit from the grant, it should be listed.
- V. Self-explanatory.
- VI. The word "community" refers to the area under the applicant's and/or recipient's jurisdiction. The "community" might be a university or laboratory campus, or a community within a large city. If there is a significant disparity between minority and nonminority populations to receive service, not otherwise satisfactorily explained, the Regional office may require a map which indicates the minority and nonminority population served by this project, program or activity.
- VII. This information is required so that reviewers may determine if a disparity in the proposed provision of services will exist in the event the application is approved for funding. Give population of recipient's jurisdiction, broken out by categories as specified.

In the event the applicant cannot provide the requested information because the funds will be distributed over a wide demographic area which is yet to be determined, an explanation may be provided on a separate sheet. For example, a State applying for a capitalization grant under the State Revolving Fund program may not know which cities and counties will apply for, and receive, SRF loans.
- VIII. Self-explanatory.
- IX. "Jurisdiction" means the geographical area over which applicant has the authority to provide service.
- X. Self-explanatory.

### "Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for viewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and to the office of information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

# EPA

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EPA Project Control Number

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United States Environmental Protection Agency  
Washington, DC 20460

## Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal and one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

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Typed Name & Title of Authorized Representative

---

Signature of Authorized Representative

Date

---

† I am unable to certify to the above statements. My explanation is attached.

## **APPENDIX K**

### **LOAN AGREEMENT (Sample)**

TABLE OF CONTENTS

FINAL AGREEMENT FOR STATE REVOLVING FUND LOAN  
FOR THE CONSTRUCTION OF WASTEWATER PROJECT  
LOAN FROM STATE WATER POLLUTION CONTROL REVOLVING FUNDS

Project No. \_\_\_\_\_  
Project Title: \_\_\_\_\_

|  | <u>Page</u> |
|--|-------------|
| Recitals   | 1           |
| 1. Definitions   | 3           |
| 2. Project Description                                 | 4           |
| 3. Estimated Cost of Construction                      | 4           |
| 4. Loan Amount   | 5           |
| 5. Completion of the Project                           | 5           |
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| 7. Project Certification                               | 6           |
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| 12. Security and Default                               | 12          |
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| 14. Project Procurement                                | 17          |
| 15. Insurance  | 18          |
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| 18. Records Maintenance, Retention, and Access         | 21          |
| 19. Project Access                                     | 23          |
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| 24. Assignments  | 26          |
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| 26. Lobbying   | 28          |
| 27. Other Conditions                                   | 28          |
| 28. Waivers of Violations                              | 28          |
| 29. Disputes   | 29          |
| 30. Modification of Agreement                          | 29          |
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| Exhibit A. Project Budget                              |             |
| Exhibit B. Project Schedule                            |             |
| Exhibit C. List of Federal "Cross-Cutting" Authorities |             |
| Exhibit D. Other Conditions                            |             |
| Exhibit E. COUNTY OF _____ Ordinance/Resolution        |             |

Project No. \_\_\_\_\_

Project Title: \_\_\_\_\_

WHEREAS, under sections 342D-80 through 342D-87, Hawaii Revised Statutes (HRS), the DIRECTOR and his delegates are



authorized to make loans to municipalities for the construction of necessary treatment works and for other projects intended for wastewater reclamation or waste management;

WHEREAS, under sections 342D-80 through 342D-87, HRS, the DIRECTOR and his delegates administer the Water Pollution Control Revolving Fund (WPCRF) (also known as the Revolving Fund under Chapter 342D, HRS; and the Clean Water State Revolving Fund or CWSRF under Chapter 11-65, Hawaii Administrative Rules (HAR));

WHEREAS, the COUNTY has made an application for a loan related to the construction of the Project, hereinafter described, and said Project has been tentatively determined by the DIRECTOR to be eligible for a loan under an Interim Agreement dated \_\_\_\_\_;

WHEREAS, the COUNTY has met the conditions of the Interim Agreement, particularly Sections 8.f and 12.c, and said project has been determined by the DIRECTOR to be eligible for the loan, pursuant to applicable federal and state laws, rules, regulations, guidance, and the Operating Agreement for Activities and Functions in Managing the State WPCRF Program between the State of Hawaii and the United States Environmental Protection Agency, Region IX; and

WHEREAS, the DIRECTOR has authorized the loan funds for the Project;

NOW, THEREFORE, the parties hereto mutually agree as

follows:

1. DEFINITIONS Unless the context in this Agreement indicates another meaning, the following terms shall have the following meaning:

a. "Clean Water Act" means the Federal Water Pollution Control Act of 1972, PL 92-500, as amended, 33 U.S.C. secs. 1251 - 1387, and rules and regulations promulgated thereunder.

b. "Construction Cut-off Date" means the date the project is capable of initiating operations as determined by the DIRECTOR. The date determined by the DIRECTOR controls in case of conflict.

c. "Debt Service" means the amount of money necessary to pay interest and principal, and loan fees on an outstanding debt in accordance with the required contributions to a amortization schedule loan.

d. "Initiation of Operation" means the date specified by the COUNTY on which use of the project begins for the purpose for which it was planned, designed, and built.

e. "Payment" means the loan funds paid to the COUNTY based on COUNTY's WPCRF payment request.

f. "Project" means the activities or tasks concerning a wastewater facility described in the

application and financed pursuant to this Agreement.

g. "Project Close-out" means the final actions taken by the DIRECTOR and the COUNTY to assure satisfactory completion of project work and to fulfill administrative requirements; including financial settlement, submission of final audit resolution, and resolution of any outstanding issues under this Agreement.

h. "Project Performance Standards" shall have the meaning assigned by 40 CFR sec. 35.2005(33).

i. "Repayment" means the loan funds paid by the COUNTY to the DIRECTOR.

j. "Semiannual" means occurring every six months.

Words defined in this section will, hereinafter, be in bold print.

2. PROJECT DESCRIPTION The **Project**, \_\_\_\_\_, C1500 \_\_\_\_\_, consists of the construction of facilities to \_\_\_\_\_ as particularly described in the loan application of the COUNTY and the plans and specifications approved by the DIRECTOR.

3. ESTIMATED COST OF CONSTRUCTION The estimated cost of the construction is \_\_\_\_\_ (\$\_\_\_\_\_), and the estimated total eligible cost of the construction **project** is \_\_\_\_\_, (\$\_\_\_\_\_). Pursuant to Section 203(a) (2) of the

**Clean Water Act**, 33 U.S.C. sec. 1283(a) (2), the only items eligible for SRF participation are those items specified as "eligible" in the Plans and Specifications Approval Letter dated \_\_\_\_\_ or those costs allowable under 40 CFR sec. 35.2250 (the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation). The **Project** Budget, which is the breakdown of the total eligible cost, is attached hereto as Exhibit "A" and made apart hereof.

4. LOAN AMOUNT (Subject to the availability of federal funds), (NOTE: delete the "Subject to..." phrase if no Fed Fund involved.) The DIRECTOR shall loan the COUNTY a total amount not to exceed \_\_\_\_\_ (\$\_\_\_\_\_), consisting of \_\_\_\_\_ (\$\_\_\_\_\_ ) of federal funds under the Capitalization Grant, which shall be paid from Appropriation Account No. S-\_\_\_\_-341-H-00\_\_\_\_206-00-398; \_\_\_\_\_ (\$\_\_\_\_\_ ) of state SRF match funds, which shall be paid from Appropriation Account No. S-\_\_\_\_-341-H-00\_\_\_\_206-00-396; and \_\_\_\_\_ (\$\_\_\_\_\_ ) of state funds, which shall be paid from Appropriation Account No. S-\_\_\_\_-341-H-00\_\_\_\_206-00-395.

5. COMPLETION OF THE **PROJECT** The COUNTY shall proceed with and complete construction of the **Project** in accordance with **Project** plans and specifications approved by the DIRECTOR. The COUNTY shall maintain progress of the **Project** as specified on the

**Project** Schedule. The **Project** Schedule is attached hereto as Exhibit "B" and made a part hereof.

6. NOTIFICATION Whenever, under the terms of this Agreement, a notice, a report, **payment**, **repayment**, or loan fee is required to be given by one party to another, such notice, report, **payment**, **repayment**, or loan fee shall be directed to the individuals specified below, at the addresses given, unless a party gives a notice in writing to the other party that another individual has been designated to receive such communications:

Dennis Tulang  
Chief, Wastewater Branch  
Hawaii State Department of Health  
919 Ala Moana Boulevard #309  
Honolulu, Hawaii 96814  
Telephone: (808) 586-4294  
Telefax: (808) 586-4300

[Insert name, address, telephone, and telefax  
numbers of Respondent]

7. PROJECT CERTIFICATION The COUNTY shall notify the DIRECTOR in writing of the date of **initiation of operation**. One year after **initiation of operation**, the COUNTY shall submit a **project** performance evaluation report and certify to the DIRECTOR that the **Project**, as of that date, meets the **project performance standards**. If the COUNTY cannot certify that the **Project** meets the **project performance standards** one year after **initiation of operation**, the COUNTY shall at its own expense, take corrective actions to allow affirmative certifications for the **Project**, and

the COUNTY shall also submit to the DIRECTOR for the DIRECTOR's approval the following:

a. A corrective action report which includes an analysis of the cause of the **Project's** failure to meet the performance standards and an estimate of the nature, scope, and cost of the corrective action necessary to bring the **Project** within the **project performance standards;**

b. The schedule for undertaking the corrective action necessary to bring the **Project** within the **project performance standards;** and

c. The scheduled date for certifying to the DIRECTOR that the **Project** is meeting the **project performance standards.**

8. **PAYMENTS** The loan amount shall be paid as follows:

a. Funds from the loan amount shall be paid on a monthly basis to the COUNTY upon receipt of proper and acceptable **payment** requests from the COUNTY.

b. The COUNTY shall not request **payment** for any **Project** cost until such cost has been incurred and is due and payable to **Project** contractors, although it is agreed that actual payment of such cost by the COUNTY

is not required as a condition for submitting the **payment** request.

c. The COUNTY's **payment** request shall be submitted to the DIRECTOR on a monthly basis and include the following:

(1) Copies of the invoices or claims, and costs summary sheet with signatures certifying the invoices from the Construction Management firm and the Contractor as submitted to the COUNTY for **payment**.

(2) The COUNTY's estimate of per cent of completion of the **Project** to justify the progress **payment** requested.

(3) A spreadsheet summarizing contractor's invoices, consultant's invoices, administration costs, total eligible and ineligible costs. The spreadsheet is commonly known as the "Combined Voucher Register and Expenditure Distribution Journal."

d. Payment to the COUNTY's contractor(s) remains the responsibility of the COUNTY.

e. The DIRECTOR's obligation to pay any sum to COUNTY under any provision of this Agreement is

contingent upon the availability of sufficient funds to permit the **payments** provided for herein. In the event that sufficient funds do not become available for reasons beyond the reasonable control of the DIRECTOR, such as failure of the federal or state government to appropriate funds necessary for **payments** of loan amounts, the DIRECTOR shall not be obligated to make any **payments** to the COUNTY under this Agreement. If any **payments** which are otherwise due to the COUNTY under this Agreement are deferred because of unavailability of sufficient funds, such **payments** will promptly be made to the COUNTY when sufficient funds do become available.

9. WITHHOLDING OF LOAN **PAYMENTS** The DIRECTOR may withhold all or any portion of the loan amount provided for by this Agreement in the event that:

a. The COUNTY has violated, or threatens to violate, any term, provision, condition, or commitment of this Agreement; or

b. The COUNTY fails to maintain progress toward completion of the **Project** in accordance with the **Project** Schedule; or

c. Any costs incurred after the **construction**



**cut-off date** shall be ineligible for WPCRF loan funding;

10. INTEREST The loan interest rate is \_\_\_\_\_ one hundredth per cent (\_\_\_\_%) per annum.

Interest begins to accrue from the date of the State issued warrant or check for each loan amount paid to the COUNTY.

11. REPAYMENT OF LOAN The loan, including interest shall be repaid as follows:

a. The COUNTY shall repay the loan amount, together with all interest accruing thereon, in thirty nine (39) **semiannual** installments, with the first **repayment** due one year after the date of Notice to Proceed or the date of this Agreement, whichever is later, for this construction **project**. The actual **repayments** will be based on **payments** made to the COUNTY. The last **semiannual** installment of principal and interest shall be repaid to the DIRECTOR not later than twenty (20) years after the date of the Notice to Proceed or the date of this Agreement, whichever is later.

b. The **semiannual repayments** shall be based on the following calculations:

(1) Calculate the **repayment** amount using the

formula below for a standard fully amortized loan with equal **semiannual repayments**.

$$R = P \frac{i}{1 - (i+1)^{-n}}$$

i = interest rate  
P = Balance of the principal amount paid to the COUNTY  
R = **Repayment** amount  
n = Term, thirty nine (39) **semiannual** installments less the number of **repayments** made.

(2) The actual interest accrued during the year shall be applied to the **repayment** amount.

The remaining amount of **repayment** shall be applied to the principal.

c. The COUNTY shall repay the principal and interest on or before each **semiannual** due date. A fifteen (15) day grace period shall be allowed.

d. Following the final loan **payment**, a Loan **Repayment** Amortization and Fee Schedule shall be mailed to the COUNTY to accurately reflect the **repayment** of principal, interest, and payment of loan fee amounts due under this Agreement.

e. The COUNTY may, with the DIRECTOR'S prior approval, at any time prepay the loan and such prepayment will be applied to the principal of the

loan. The prepayment amount will not reduce the amount of the **semiannual repayment**. The term of the loan, however, will be reduced and a revised Loan **Repayment** Amortization and Fee Schedule will be sent to the COUNTY.

f. The COUNTY shall repay the principal and interest by check or warrant, made payable to the STATE OF HAWAII, DIRECTOR OF THE DEPARTMENT OF HEALTH, and delivered to the address as specified in section 6.

g. In the event circumstances prevent the COUNTY from complying with this section, the DIRECTOR shall be entitled to collect interest from the COUNTY on the amount of the **semiannual repayment** at the effective rate of twelve per cent (12%) simple interest per year commencing on the first day following the **repayment** due date and ending on the date of the check or warrant issued by the COUNTY.

## 12. SECURITY AND DEFAULT

a. The DIRECTOR shall not approve new loan applications from the COUNTY if any current loan is in default. A default is deemed to exist if **repayments** or loan fees on current loans are not paid when due, if the COUNTY fails to fulfill its obligations under this

Agreement, or if the COUNTY becomes financially insolvent.

b. In the event the COUNTY fails to remit the **semiannual repayments** or loan fees as established in the Loan **Repayment** Amortization and Fee Schedule, the DIRECTOR shall deliver by certified mail a written notice of such failure to the COUNTY. In the event the COUNTY fails to cure **repayment** or loan fee delinquency within thirty (30) days after the receipt of such notice, the DIRECTOR shall notify the Attorney General of the State of Hawaii of the default of the COUNTY.

c. As security for this **Project** loan, interest, and loan fee the COUNTY pledges its COUNTY DEPARTMENT's revenues and full faith and credit, as shown in the attached Exhibit E, Ordinance/Resolution No. \_\_\_\_\_. This agreement and the loan **payments** made under it are secured by revenue of the COUNTY DEPARTMENT. This agreement and the loan **payments** made under it constitute a lien and charge upon: (i) the COUNTY DEPARTMENT's gross revenue and (ii) the COUNTY DEPARTMENT's assessments, as authorized in a Resolution or Ordinance No. (Example: 98-197, CD1) passed by the COUNTY council.

The COUNTY covenants that the COUNTY DEPARTMENT shall exercise its revenue bond, revenue, assessment, and other authority as needed, to the extent allowed by law, to pay the **semiannual repayments** and loan fees under this agreement. As needed, the COUNTY DEPARTMENT shall establish, increase and collect such fees, assessments, and taxes and make such adjustments to raise funds sufficient to repay the loan and pay loan fees under this agreement. The COUNTY pledges its COUNTY DEPARTMENT's full faith and credit, and covenants to exercise that authority as needed, to the extent allowed by law.

d. The COUNTY DEPARTMENT shall maintain a dedicated source of revenue in an amount equal to the maximum annual **debt service** (principal **repayment** and interest) and the maximum annual amount of loan fees.

e. The COUNTY represents that it has exercised due regard for operation and maintenance expenses and the debt service requirements of any lien obligations and any other outstanding obligations pledging the gross revenues of the COUNTY DEPARTMENT, and the COUNTY DEPARTMENT has not obligated itself to set aside and pay more for **semiannual repayments** and loan fees under

this agreement than in its judgment will be available over and above its operation and maintenance expenses, other debt service obligations, or other obligations.

f. The foregoing pledges, covenants, and promises in sections 12.c, 12.d, and 12.e are the COUNTY's "dedicated source of revenue" under 33 U.S.C § 1383 (d)(1)(C), 40 C.F.R § 35.3120(a)(1)(iv), and H.R.S. § 342D-87(d).

g. In addition to all rights and remedies provided by the laws of the State of Hawaii, the COUNTY agrees that in the event the COUNTY defaults in **repayments** or loan fees payments to be made to the DEPARTMENT OF HEALTH as required by this Agreement or defaults in the observance or performance of any other provisions of this Agreement, the DIRECTOR shall be entitled to an order or a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the COUNTY and its officers to observe and perform any covenant, condition or obligation prescribed in this Agreement.

h. No delay or omission to exercise any right or power shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as

often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

13. USER CHARGE SYSTEM The COUNTY shall at all times maintain a User Charge System designed to produce adequate revenue required for operation and maintenance (including replacement) in accordance with 40 CFR sec. 35.2140 (the COUNTY is deemed the "grantee" and the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation).

The User Charge System may include ad valorem taxes, user charges based on actual use, or other sources of income which are consistent with federal requirements.

The COUNTY guarantees that revenues from the User Charge System will be set aside for operation and maintenance (including replacement) and not used for other purposes.

The COUNTY further agrees to annually review and if necessary, modify the User Charge System in accordance with 40 CFR sec. 35.2122. (The COUNTY is deemed the "applicant" and the DIRECTOR is deemed the "regional Administrator" for the application here of this Federal Regulation.) The User Charge System and all modifications thereof shall be consistent with applicable guidelines established by the DIRECTOR.

14. **PROJECT PROCUREMENT** The COUNTY shall:

a. Procure the architectural/engineering services in accordance with Chapter 103D of the Hawaii Revised Statutes and \_\_\_\_\_ Consultant Selection Procedures.

b. Procure the construction contractor(s) in accordance with Chapter 103D of the Hawaii Revised Statutes.

c. Not consider contractors debarred, suspended or voluntarily excluded from participating in federally assisted programs.

d. Award the prime construction contract for the **Project** no later than ninety (90) days after the date of this Agreement. The COUNTY shall promptly submit a copy of the Notice to Proceed to the DIRECTOR.

e. Provide the DIRECTOR an executed copy of the contract between the COUNTY and contractor(s).

f. Submit the following documents with the contract:

(1) An affidavit of publication from the newspaper agencies of the bid solicitation as proof of advertising.

(2) Detailed bid tabulation, bid proposals, and the award recommendation, certified by the



engineer responsible for overseeing construction.

(3) Detailed cost breakdown supporting each item of the **project** cost.

g. Submit subagreements for Construction

Management work and services during construction to the DIRECTOR for approval. No **payments** for the affected engineering work shall be made to the COUNTY under this loan until the subagreements have been approved.

h. Provide certification to the DIRECTOR that affirmative steps, in accordance with 40 CFR sec. 35.3145(d), were taken to encourage participation of small, minority, and women's business enterprises in **Project** construction and documentation of the intended use of such enterprises therein. The COUNTY is deemed as "grantee" for the application here of this federal regulation.

15. INSURANCE

a. The COUNTY shall ensure that contractor(s) obtain and keep in force the following until the **construction cut-off date**:

(1) Performance and payment bonds for the full amount of the contracts.

(2) Insurance against customary risks during

the period of construction shall also be provided.

(3) Builder's risk or similar types of insurance in an amount equal to the full replacement cost of the **Project**, to the extent that such insurance is obtainable for the duration of the construction period against any one or more of such risks.

b. The COUNTY shall acquire and maintain, upon the **initiation of operation**, any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, for the useful life of the **Project**. This condition shall not be applicable if the **Project** location is outside the boundaries of a special flood hazard area delineated on a Flood Hazard Boundary Map of Flood Insurance Rate Map which has been issued by the Federal Emergency Management Agency. This condition shall not be applicable if the total value of improvements insurable under the National Flood Insurance Act is less than \$10,000.

c. As documentation of insurance coverage, the COUNTY shall submit to the DIRECTOR copies of the bonding and insurance certifications or policies.

16. CONSTRUCTION ACTIVITIES The COUNTY shall promptly

notify the DIRECTOR in writing of:

a. Any proposed change in scope of the **Project**.

No change will be undertaken until written notice of the proposed change has been provided to the DIRECTOR and the DIRECTOR has given written approval for such change.

b. Any construction change order when the change will increase construction costs. Change orders shall comply with 40 CFR sec. 35.938-5. The COUNTY is deemed the "grantee" for the application here of this federal regulation. The COUNTY is responsible for additional costs that are ineligible for loan funding or when the loan funds are unavailable.

c. Cessation of all major construction work on the **Project** where such cessation of work is expected or does extend for a period of thirty (30) days or more.

d. Any circumstance, combination of circumstances, or condition which is expected to or does delay completion of construction for a period of ninety (90) days or more beyond the estimated date of completion of construction previously provided to the DIRECTOR.

e. Completion of construction of the **Project**.

17. ARCHEOLOGICAL AND HISTORICAL PRESERVATION Should the discovery of potential archaeological or historical resource occur during construction, all works in the area of the find will stop and the construction consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. Said Historic Preservation Officer shall determine what shall be necessary for construction to proceed.

18. RECORDS MAINTENANCE, RETENTION, AND ACCESS The COUNTY shall maintain, retain, and allow access to the **Project** records in accordance with 40 CFR sec. 31.42 (the COUNTY is deemed the "grantee" for the application here of this federal regulation) and in the following manner:

a. Establish an official file for the construction phase which shall document all significant actions regarding the **Project**.

b. Establish accounts to record all amounts received and expended on the **Project**, including all loan funds received under this Agreement.

c. Establish accounts to record all income received for the **Project**, specifically including any income attributable to loan amounts received under this

Agreement.

d. Establish an accounting system which will depict final total costs of the **Project**, including both direct and indirect costs. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP) as contained in "Codification of Governmental Accounting and Financial Reporting Standards" as published by Governmental Accounting Standards Board.

e. Establish such accounts and maintain such records as may be necessary for the DIRECTOR to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations.

f. Allow the DIRECTOR, the Comptroller of the State of Hawaii, the federal granting agency, the Comptroller General of the United States, and any of their authorized representatives, the committees (and their staffs) of the Congress and Legislature of the State of Hawaii, and the Legislative Auditor of the State of Hawaii to have the right of access to any book, document, paper, file, or other record of the COUNTY (and of any of its subcontractors) that is related to the performance of the provisions under this Agreement in order to conduct an audit or other

examination or to make excerpts and transcripts for the purposes of monitoring and evaluating the COUNTY's performance of the provisions and the COUNTY's program, management, and fiscal practices to assure the proper and effective expenditure of funds under this Agreement. The right of access shall not be limited to the required retention period but shall last as long as the records are retained.

g. The COUNTY shall retain all records related to the COUNTY's performance of the provisions under this Agreement for at least three (3) years after the date of submission of the COUNTY's final expenditure report, except that if any litigation, claim, negotiation, investigation, audit, or other action involving the records has been started before the expiration of the three-year period, the COUNTY shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year retention period, whichever occurs later.

19. **PROJECT ACCESS** The COUNTY shall ensure that the Environmental Protection Agency and the DIRECTOR, or any authorized representative thereof, will have access to the **Project** site at all reasonable times during **Project** construction

and thereafter for the useful life of the **Project**. Inspections may be unannounced.

20. REPORTS The COUNTY shall submit to the DIRECTOR by September 30th of each year, an Annual Report of the **debt service** and loan fees of the **Project** during the course of the loan **repayment** period. These reports shall summarize all income and expenses (operating and non-operating) of the **Project** for the year and include any revisions to the projected income and expenses for the remainder of the loan **repayment** period. The purpose of the reports is to update the DIRECTOR on the **Project's** financial status and to determine whether the **Project** is able to meet its **repayment** and loan fee obligation.

21. AUDITS The COUNTY shall conduct an annual audit performed by an independent auditor in accordance with OMB Circular No. A-133, "Audits of State, Local Governments, and Non-Profit Organizations" (June 1997), and the Single Audit Act of 1984, Public Law 98-502, as amended (31 U.S.C. secs. 7501-7). Audits may be conducted in conjunction with the COUNTY's annual audit.

The COUNTY shall deliver to the DIRECTOR the audit report annually.

22. INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES  
In the performance of the provisions required under this

Agreement, the COUNTY shall be an "independent contractor" with the authority and responsibility to control and direct the performance and details of the work required under this Agreement; however, the DIRECTOR shall have a general right to inspect work in progress to determine whether, in the DIRECTOR's opinion, the provisions are being performed by the COUNTY in accordance with the provisions of this Agreement. All persons hired or used by the COUNTY shall be the COUNTY's employees and agents and the COUNTY shall ensure that such persons are qualified to engage in the activity in which they participate. The COUNTY shall be responsible for the accuracy, completeness, and adequacy of any and all work performed by the COUNTY's employees and agents and shall ensure that all applicable licensing and operating requirements of the state, federal, and county governments and all applicable accreditation and other standards of quality generally accepted in the field of the COUNTY's activities are complied with and satisfactorily met. Furthermore, the COUNTY intentionally, voluntarily, and knowingly assumes the sole and entire liability (if any such liability is determined to exist) for its employees and agents or to other persons for all loss, damage, or injury caused by the COUNTY's employees and agents in the course of their employment. The mere participation in the performance of provisions under this Agreement shall not constitute nor be construed as employment



with the State of Hawaii and shall not entitle the COUNTY or the COUNTY's employees, agents, or subcontractors to vacation, sick leave, retirement, worker's compensation, or other benefits afforded state employees by statute. The COUNTY shall be responsible for payment of applicable income, social security, and any other federal, state, or county taxes and fees.

23. DEFENSE AND INDEMNIFICATION The COUNTY shall defend, indemnify, and save harmless the State of Hawaii, the DIRECTOR, and their officers, employees, and agents from and against any and all actions, claims, suits, damages, and costs arising out of or resulting from the acts or omissions of the COUNTY or the COUNTY's officers, employees, agents, contractors, or subcontractors occurring during or in connection with the performance of the COUNTY's services under this Agreement. The COUNTY shall defend and indemnify the State of Hawaii, the DIRECTOR, and their officers, and agents against any such action or claim unless the action or claim involves an act or omission solely of the State or the DIRECTOR, their officers, employees, or agents.

24. ASSIGNMENTS The COUNTY shall not assign any part or all of the provisions to be performed under this Agreement without the prior written consent and approval of the DIRECTOR. The DIRECTOR may condition any consent and approval upon such terms and provisions that the DIRECTOR may deem necessary.

Furthermore, no assignment of claims for money due or to become due to the COUNTY under this Agreement shall be effective unless the assignment of such claims is first approved by the DIRECTOR and the Comptroller of the State of Hawaii.

25. COMPLIANCE WITH LAWS, REGULATIONS, ETC. The COUNTY shall:

a. Comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements to include, but not be limited to, the list of federal "cross-cutting" authorities as identified in Exhibit "C" and made a part hereof. In particular, no person performing work under this Agreement, including any subcontractor, employee, or agent of the COUNTY, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

b. Conduct an environmental review of the **Project** that meets the requirements of the U.S. Environmental Protection Agency's 40 CFR Part 6, Subpart E and 40 CFR sec. 35.3140.

c. Adopt and maintain a user charge system and sewer use ordinance for the useful life of the **Project**.

The user charge system and sewer use ordinance shall

comply with the requirements of 40 CFR sec. 35.2140 and shall be reviewed and approved by the DIRECTOR annually. The COUNTY is deemed the "applicant" and the DIRECTOR is deemed the "Regional Administrator" for the application here of this federal regulation.

26. LOBBYING No portion of this loan shall be used for lobbying or propaganda purposes as prohibited by 18 U.S.C.A. sec. 1913 (West 1984), or section 607(a) of Public Law 96-74, 93 Stat. 575 (Sept 29, 1979).

27. OTHER CONDITIONS The COUNTY shall comply with the Other Conditions listed in Exhibit "D", attached hereto and made a part hereof, to maximize the beneficial use of this loan Agreement.

28. WAIVERS OF VIOLATIONS It is expressly understood and agreed that no waiver granted by the DIRECTOR on account of any violation of any promise, term, or condition of this Agreement shall constitute or be construed in any manner as a waiver of the promise, term, or condition or of the right to enforce the same as to any other or further violation.

It is further expressly understood and agreed that the failure of the DIRECTOR to insist upon the strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of the DIRECTOR's right to enforce the same in accordance with

this Agreement.

29. DISPUTES Any dispute arising out of this Agreement, which is not disposed of by mutual agreement within thirty (30) calendar days, shall, unless both the COUNTY and the DIRECTOR mutually agree to an arbitration, be decided by the DIRECTOR or his designated representative, who shall reduce the decision to writing and mail or otherwise furnish a copy of the decision to the COUNTY. The decision of the DIRECTOR, or his designated representative, or the agreed upon arbitrator(s), shall be final and conclusive. Pending final decision of such a dispute, the COUNTY shall proceed diligently with the performance of the provisions under this Agreement in accordance with the DIRECTOR's requests. The COUNTY shall pay for any DIRECTOR's expenses, including legal fees and collection fees, arising from nonpayment or late **repayments** of principal, interest, and loan fees of this Agreement.

30. MODIFICATION OF AGREEMENT Any modification, alteration, or change to this Agreement, including modification of the provisions to be performed, increase (subject to the availability of funds) or decrease in the amount of the loan, shall be made only by written supplemental agreements executed by the parties.

31. TERMINATION OF AGREEMENT

a. This Agreement may be terminated by the

DIRECTOR upon written notice to the COUNTY during construction of the **Project**, or thereafter at any time prior to complete **repayment** of principal, interest, and payment of loan fees by the COUNTY, upon violation by the COUNTY of any material provision of this Loan Agreement after such violation has been called to the attention of the COUNTY and after failure of the COUNTY to bring itself into compliance with the provisions of this Agreement within a reasonable time.

b. In the event of such termination under Section 31.a, above, the COUNTY agrees, upon demand, to immediately repay to the DIRECTOR an amount equal to the current balance due on the loan, including accrued interest and loan fees.

32. SEVERABILITY In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.

33. LOAN FEE

a. The COUNTY shall pay the DIRECTOR a **semiannual** loan fee which shall be computed based on the outstanding principal balance, and be payable on, the same dates that corresponding **repayments** of the

principal and interest on the loan are due. The **semiannual** loan fee is calculated by taking one half per cent (0.5%) of the outstanding principal balance at the time the **semiannual repayment** is due.

b. Each loan fee shall be paid when the **semiannual repayment** is due, as specified in subsection 11.a of this Agreement. A fifteen (15) day grace period shall be allowed.

c. Following the final loan **payment**, a Loan **Repayment** Amortization and Fee Schedule shall be mailed to the County to accurately reflect the **repayment** and loan fee amounts due under this Agreement.

d. The COUNTY shall repay the loan fee by check or warrant, made payable to the STATE OF HAWAII, DIRECTOR OF THE DEPARTMENT OF HEALTH, and delivered to the address as specified in section 6.

e. In the event circumstances prevent the COUNTY from complying with this section, the DIRECTOR shall be entitled to collect interest from the COUNTY on the amount of the loan fee at the effective rate of twelve per cent (12%) simple interest per year commencing on the first day following the **repayment** due date and ending on the date of the check or warrant issued by

the COUNTY.

34. EFFECTIVE AND TERMINATION DATES The effective date of this Agreement is the date first above written. This Agreement shall remain in effect for the useful life of the **Project** or until the date of the final loan **repayment** and loan fee payment are received, whichever period is longer, unless this agreement is sooner terminated or extended.

35. AUTHORIZATION The parties certify that their undersigned representatives are fully authorized to enter into this Agreement, to execute it on behalf of the parties, and to legally bind the parties to its terms.

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IN VIEW OF THE ABOVE, the parties execute this

Agreement by their signatures, to be effective as of the date above written.

DEPARTMENT OF HEALTH,  
STATE OF HAWAII

By \_\_\_\_\_  
Its Director of Health

COUNTY OF (SPECIFY THE COUNTY)

By \_\_\_\_\_  
Its Mayor

By \_\_\_\_\_  
Its Director of Finance

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Director and Chief Engineer  
Department of Public Works  
(Specify the County)

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General  
State of Hawaii

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel  
(Specify the County)



### PROJECT BUDGET

The COUNTY and the DIRECTOR acknowledge that the actual cost of the **Project** has not been determined as of the effective date of this Agreement. **Project** cost adjustments may be made as a result of construction bidding or mutually agreed upon **Project** changes. The final cost shall be established after all **Project** costs are reviewed subsequent to **Project** performance certification. Changes in **Project** costs may also occur as a result of the COUNTY's **Project** audit or an independent audit under the Single Audit Act. Until this Agreement is amended, the COUNTY agrees to the following estimates for the **Project** cost:

1. Architectural engineering basic fees           \$
2. Other architectural engineering fees
3. **Project** inspection fees - CM
4. Construction and **project** improvement
5. Equipment
6. Total (Line 1 through 5)
7. Less: Ineligible Exclusions
8. Add: Contingencies
9. Total Eligible **Project** Amount
10. SRF loan requested of Line 9
11. County share
12. Other shares
13. Total **project** costs (Lines 10,11,&12)

Exhibit "A"

PROJECT SCHEDULE

Est. Date

- A. Notice to Proceed
- B. Completion of Construction
- C. **Project** Duration from start to finish (months)

Exhibit "B"

LIST OF FEDERAL LAWS AND AUTHORITIES  
(FEDERAL "CROSS-CUTTING" AUTHORITIES)

Federal Law in effect when the Agreement is signed shall apply. References below from years of publication and page numbers may have been superseded.

ENVIRONMENTAL:

- ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 U.S.C.A. secs. 469-469b (West 1985)
- CLEAN AIR ACT, 42 U.S.C.A. sec. 7506(c) (West 1983 and Supp. 1990)
- COASTAL BARRIER RESOURCES ACT, 16 U.S.C.A. secs. 3501-3510, (West 1985 and Supp. 1990)
- COASTAL ZONE MANAGEMENT ACT OF 1972, 16 U.S.C.A. secs. 1451-1464 (West 1985 and Supp. 1990)
- ENDANGERED SPECIES ACT 16 U.S.C.A. secs. 1531-1543 (West 1985 and Supp. 1990)
- FARMLAND PROTECTION POLICY ACT, 7 U.S.C.A. secs. 4201-4209 (West 1988)
- FISH AND WILDLIFE COORDINATION ACT, 16 U.S.C.A. secs. 661-664 (West 1985 and Supp. 1990)
- FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988, 3 C.F.R. 117 (1978), reprinted in 42 U.S.C.A. sec. 4321, ann. at 286-288 (West Supp. 1993), as amended by FEDERAL EMERGENCY MANAGEMENT, EXECUTIVE ORDER 12148, sec. 5-207, 3 C.F.R. 412 (1980), reprinted in 50 APP. U.S.C.A. sec. 2251, ann. at 169-174 (West 1991)
- NATIONAL HISTORIC PRESERVATION ACT OF 1966, 16 U.S.C.A. secs. 470-470w-6 (West 1985 and Supp. 1990)
- PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990, 3 C.F.R. 121 (1978), reprinted in 42 U.S.C.A. sec. 4321, ann. at 288-289 (West Supp. 1993)
- SAFE DRINKING WATER ACT, 42 U.S.C.A. secs. 300f-300j-9 (West 1982)

Exhibit "C"

-1-

ECONOMIC:

- ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS, EXECUTIVE ORDER 11738, 3 C.F.R. 799 (1971-1975), reprinted in 42 U.S.C.A. sec. 7606, ann. at 693-694 (West 1983)
- DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, 42 U.S.C.A. secs. 3311-3339, 3371, and 3374 (West 1977 and Supp. 1990)
- FEDERAL PROCUREMENT, CLEAN AIR ACT, sec. 306, 42 U.S.C.A. sec. 7606 (West 1983)
- FEDERAL PROCUREMENT, **CLEAN WATER ACT**, sec. 508, 33 U.S.C.A. sec. 1368 (West 1986)

SOCIAL LEGISLATION:

- AGE DISCRIMINATION ACT, 42 U.S.C.A. secs. 6101-6107 (West 1983 and Supp. 1990)
- CIVIL RIGHTS ACT OF 1964, 42 U.S.C.A. secs. 2000a-2000h-6 (West 1981 and Supp. 1990)
- EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, 3 C.F.R. 339 (1964-1965), reprinted in 42 U.S.C.A. sec. 2000(e), ann. at 19-24 (West 1981)
- MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432, 3 C.F.R. 198 (1984), reprinted in 15 U.S.C.A. sec. 637, ann. at 155 (West Supp. 1990)
- NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625, 3 C.F.R. 616 (1971-1975), reprinted in 15 U.S.C.A. sec. 631, ann. at 175-177 (West 1976)
- NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138, 3 C.F.R. 393 (1980), reprinted in 15 U.S.C.A. sec. 631, ann. at 60-62 (West Supp. 1990)

Exhibit "C"

-2-

- PROHIBITION AGAINST SEX DISCRIMINATION UNDER THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, sec. 13, Public Law 92-500, reprinted in 33 U.S.C.A. sec. 1251, ann. at 518 (West 1986)
- REHABILITATION ACT OF 1973, 29 U.S.C.A. sec. 794 (West 1985 and Supp. 1990)

MISCELLANEOUS AUTHORITY:

- DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549, 3 C.F.R. 189 (1987), reprinted in 31 U.S.C.A. sec. 6101, ann. at 96 (West Supp. 1990)
- DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12689, 3 C.F.R. 235 (1990) (54 Federal Register 34131, Aug. 16, 1989), reprinted in 31 U.S.C.A. sec. 6101, ann. at 97 (West Supp. 1990).
- UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, 42 U.S.C.A. secs. 4601-4655 (West 1983 and Supp. 1990)

Exhibit "C"

-3-

### OTHER CONDITIONS

**Project** No. \_\_\_\_\_

**Project** Description: \_\_\_\_\_

1. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing **projects** or programs funded in whole or in part with State Water Pollution Control Revolving Fund (WPCRF) money, all grantees receiving WPCRF funds including but not limited to State and local governments shall clearly state: 1) the percentage of the total costs of the program or **project** which will be financed with WPCRF money; 2) the dollar amount of WPCRF funds for the **project** or program; and 3) the percentage and dollar amount of the total costs of the **project** or program that will be financed by non-governmental sources.

2. The COUNTY shall take the necessary actions to maximize the benefits of this **Project** such as assuring the timely hookup of existing residences of the community for which this **Project** is serving.

Exhibit "D"

## **APPENDIX L**

### **PREAWARD FORM**

**PRE-AWARD FORM  
FOR STATE REVOLVING FUND LOANS  
TO CONSTRUCT WASTEWATER TREATMENT FACILITIES**

Submit this form to the State Wastewater Branch after selecting the proposed construction contractor(s) and A/E firm(s).

1. Project\_\_\_\_\_ C-15-00\_\_\_\_\_
2. Applicant \_\_\_\_\_
3. Date by which contract(s) must be awarded:\_\_\_\_\_
4. Have there been any significant changes to the final plans and specifications, plan of study, or scope of work, since the date of the State's planning documents approval letter?

\_\_\_\_\_ yes          \_\_\_\_\_ no

If YES, please submit these changes to DOH for approval prior to completion of this form.

5. Submit one copy of all A/E agreements which the applicant proposes to accept. (\* For federally-funded projects, these agreements must include the "boiler plate" requirements.)
6. For the construction portion of the project, submit one copy of the following:
  - a) the contract(s) which the applicant proposes to accept and the bid tabulations. (\* For federally-funded projects, these contracts must include the "boiler plate" requirements);
  - b) a summary of all bidders' proposals received, with an identification of the lowest, responsive, responsible bidder;
  - c) evidence of bid advertisement; and,
  - d) the engineer's estimate of project costs.
7. Is the selected construction bid the lowest bid received?

\_\_\_\_\_ yes          \_\_\_\_\_ no

If NO, submit all bid tabulations received, plus a detailed justification describing why the applicant intends to award to other than the lowest bidder.



8. Complete the Summary of Project Costs. In the "remarks" column, describe any ineligible cost items.

|   | Total<br>Costs | Eligible<br>Costs | Ineligible<br>Costs | Remarks |
|---|----------------|-------------------|---------------------|---------|
| Contractor(s):  |                |                   |                     |         |
| 1.  | \$             | \$                | \$                  |         |
| 2.  | \$             | \$                | \$                  |         |
| 3.  | \$             | \$                | \$                  |         |
| Subtotal  | \$             | \$                | \$                  |         |
| Contingency,<br>10% of Eligible<br>Construction Costs | \$             | \$                | \$                  |         |
| Design Allowance,<br>factor <sup>1</sup> :_____ times |                |                   |                     |         |
| Elig Construction Costs                               | \$             | \$                | \$                  |         |
| Construction Management                               | \$             | \$                | \$                  |         |
| Project Inspection                                    | \$             | \$                | \$                  |         |
| O&M Manual Preparation                                | \$             | \$                | \$                  |         |
| Other A/E Services                                    | \$             | \$                | \$                  |         |
| Equipment <sup>2</sup>                                | \$             | \$                | \$                  |         |
| Other (specify)                                       | \$             | \$                | \$                  |         |
| TOTAL   | \$             | \$                | \$                  |         |

<sup>1</sup> Allowable factors listed in Appendix I, pages I-1 thru I-4 of the SRF Applicant Manual.

<sup>2</sup> If equipment or material have been approved for purchase outside the construction contracts, enter the estimated or actual costs.

9. Financing Sources for Total Project Costs

|                                      |           |
|--------------------------------------|-----------|
| <u>General Obligation Bonds</u>      | <u>\$</u> |
| <u>Revenue Bonds</u>                 | <u>\$</u> |
| <u>Appropriations</u>                | <u>\$</u> |
| <u>Other County Funds (specify)</u>  | <u>\$</u> |
| <u>Other State Funds (specify)</u>   | <u>\$</u> |
| <u>Other Federal Funds (specify)</u> | <u>\$</u> |
| <u>State Revolving Fund Loan</u>     | <u>\$</u> |
| <u>TOTAL</u>                         | <u>\$</u> |

10. Describe the dedicated revenue source(s) and timing of these sources for repayment of the loan. Also, identify any alternative sources of funds, should the dedicated source become insufficient to cover the loan payments.

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11. Project Milestones

|                             |                                |
|-----------------------------|--------------------------------|
| <u>                    </u> | Award construction contract(s) |
| <u>                    </u> | Award A/E agreement(s)         |
| <u>                    </u> | Issue Notice to Proceed        |
| <u>                    </u> | Construction completion date   |
| <u>                    </u> | Project duration, in months    |

## 12. Payment Request Schedule

Indicate the proposed payment request schedule. Payments may be requested only for costs which have been incurred.

|           | 20____ | 20____ | 20____ |
|-----------|--------|--------|--------|
| January   | _____  | _____  | _____  |
| February  | _____  | _____  | _____  |
| March     | _____  | _____  | _____  |
| April     | _____  | _____  | _____  |
| May       | _____  | _____  | _____  |
| June      | _____  | _____  | _____  |
| July      | _____  | _____  | _____  |
| August    | _____  | _____  | _____  |
| September | _____  | _____  | _____  |
| October   | _____  | _____  | _____  |
| November  | _____  | _____  | _____  |
| December  | _____  | _____  | _____  |

13. Did the Applicant submit all the documents and forms as required in the interim loan agreement? \_\_\_\_ Yes \_\_\_\_ No, if No, please attach documents and forms.

---

## 14. Certification

The undersigned representative of the applicant certifies that the information contained above and in any attached statements and materials in support thereof, is true and correct.

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Signature of Authorized Representative \_\_\_\_\_ Date \_\_\_\_\_

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Name and Title of Authorized Representative \_\_\_\_\_

## **APPENDIX M**

### **FEDERAL REQUIREMENTS FOR SRF LOAN AGREEMENTS**

**(includes “Boiler Plate”)**

FEDERAL REQUIREMENTS  
FOR  
CWSRF LOAN APPLICANTS



JULY 2005

FEDERAL REQUIREMENTS FOR  
CWSRF PROJECTS

For any CWSRF loan, the Applicant is required to certify that they have complied, or will comply, with all the federal regulations listed herein as "Cross-cutter" regulations which have been determined as applying to the CWSRF loan program.

The Applicant must also insert a copy of the "CWSRF Boilerplate", as provided, into all consultant and construction contracts and subcontracts.

A. "CROSS-CUTTER" REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

- a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974,  
16 USC 469a-1

Should the discovery of potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

- b. CLEAN AIR ACT, 42 USC 7401

The recipient must determine the direct and indirect emissions from the proposed treatment works project and their impact on air quality. This analysis must determine if the project conforms to the State Implementation Plan (SIP).

- c. COASTAL BARRIERS RESOURCES ACT, 16 USC 3501

This Act does not apply to the State of Hawaii at this time.

- d. COASTAL ZONE MANAGEMENT ACT, 16 USC 1451

CWSRF assistance recipients should consult with the coastal zone management program to ensure that the project will be consistent with the state program. Certification must be approved by the coastal zone agency prior to CWSRF assistance.

e. ENDANGERED SPECIES ACT, 16 USC 1531

CWSRF assistance recipients must determine whether any endangered or threatened species or critical habitat exists within the locale of the proposed project.

f. ENVIRONMENTAL JUSTICE, EXECUTIVE ORDER 12898

CWSRF assistance recipients shall attempt to identify and address disproportionately high and adverse human health or environmental effects of this project on minority populations and low-income populations.

g. FARMLAND PROTECTION POLICY ACT, 7 USC 4201

CWSRF assistance recipients must determine whether the proposed project will have an affect on significant agricultural lands.

h. FISH AND WILDLIFE COORDINATION ACT, 16 USC 661

CWSRF assistance recipients should seek the assistance of wildlife officials to determine the affect the proposed project may have on wildlife and its habitat.

i. FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988 (1977), AS AMENDED BY EXECUTIVE ORDER 12148 (1979)

CWSRF assistance recipients must determine if the proposed project will be located in or affect a floodplain. Projects within floodplains must document flood protection mitigation and design measures.

j. NATIONAL HISTORIC PRESERVATION ACT, 16 USC 470

CWSRF assistance recipients must determine whether historic properties that are included or are eligible for inclusion on the National Register are in the project area.

k. PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990 (1977), AS AMENDED BY EXECUTIVE ORDER 12608 (1997)

CWSRF assistance recipients must determine whether their proposed project will be in or will affect a wetland, and whether an alternative will be necessary.

l. SAFE DRINKING WATER ACT, 42 USC 300f

CWSRF assistance recipients must determine if their proposed project will affect a sole source aquifer, and whether further investigations will be necessary.

m. WILD AND SCENIC RIVERS ACT, 16 USC 1271

This Act is not applicable to the State of Hawaii at this time.

n. ESSENTIAL FISH HABITAT CONSULTATION PROCESS UNDER THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT, 16 U.S.C. 1801

CWSRF assistance recipients must determine whether a proposed project may adversely effect Essential Fish Habitat (EFH). The National Marine Fisheries Service will make maps and/or other information on the locations of EFH available as well as provide information on ways to promote conservation of EFH, in order to facilitate this assessment.

2. ECONOMIC POLICY AUTHORITIES:

a. ADMINISTRATION OF THE CLEAN AIR ACT AND THE WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS OR LOANS, EXECUTIVE ORDER 11738.

This Executive Order prohibits assistance to facilities that are not in compliance with either the Clean Water or the Clean Air Acts unless the purpose of the assistance is to remedy the cause of the violation.

b. DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, Pub.L. 89-754, AS AMENDED 42 USC 3331

CWSRF assistance recipients should submit information describing a proposed project's effect on local development plans to the CWSRF agency.

c. PROCUREMENT PROHIBITIONS, EXECUTIVE ORDER 11738, Section 306 of the Clean Air Act.

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Air Act violators.

d. PROCUREMENT PROHIBITIONS, Section 508, of the Clean Water Act.



The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Water Act violators.

3. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 6102

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, as amended.

This Executive Order requires all recipients of Federal contracts to include certain non-discrimination and "affirmative action" provisions in all contracts. The provisions commit the contractor or subcontractor to maintain a policy of non-discrimination in the treatment of employees, to make this policy known to employees, and to recruit, hire and train employees without regard to race, color, sex, religion and national origin.

d. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432.

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting of the use of minority enterprises.

e. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625.

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

f. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER

12138.

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex.

g. REHABILITATION ACT OF 1973, 29 U.S.C. 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

i. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

j. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, Pub. L. 100-590, Section 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

k. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, Pub. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and leaking under ground storage tank grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purpose of this section, economically and socially disadvantage individuals shall be deemed to include

women... "

4. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a construction contract, the contractor must certify that it will not knowingly enter into a contract with any persons that are ineligible under the regulations to participate in the project. Prior to the award of any subcontract, contractors on the project must provide the general contractor with the similar certification.

b. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT, Pub.L. 91-646 (1971), as amended 42 USC 4601-4655

The Act establishes a policy for fair and equitable treatment of persons who are displaced from their homes, farms or businesses to make way for a federally-assisted project.

c. PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS CONTRACTOR'S LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS, - Executive Order 13202(2001), as amended by Executive Order 13208(2001)

CWSRF assistance recipients must ensure that bid specifications, project agreements, and other controlling documents for construction contracts awarded after February 17, 2001 do not require or prohibit agreements with labor organizations. Further, CWSRF assistance recipients and any construction manager acting upon their behalf must not otherwise discriminate against bidders, offerors, contractors, or subcontractors for entering into, or refusing to enter into, agreements with labor organizations.

B. REQUIRED FEDERAL FORMS:

The following forms are to be submitted by the recipient to the DOH/WWB for each CWSRF project:

a. EPA Form 5700-49 (Certification Regarding Debarment, Suspension, and Other Responsibility

Matters)

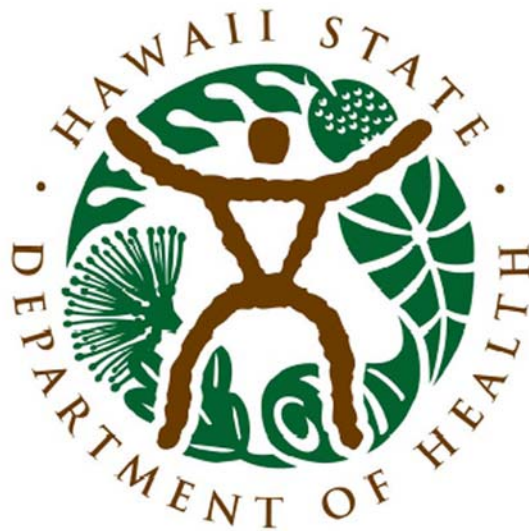
- b. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS



JULY 2005

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS

To the Consultant, Contractor or Sub-contractor of a CWSRF loan funded project:

All CWSRF projects must comply with all the federal regulations listed herein which have been determined as applying to the SRF loan program.

CROSS-CUTTER REGULATIONS:

1. ENVIRONMENTAL AUTHORITIES:

a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 USC 469a-1

Should the contractor discover potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

2. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 6102

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, as

amended.

The contractor or subcontractor on any SRF project shall maintain a policy of non-discrimination in the treatment of employees, shall make this policy known to employees, and shall recruit, hire and train employees without regard to race, color, sex, religion and national origin.

- d. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act..

- e. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

- f. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432.

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting of the use of minority enterprises.

- g. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625.

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

- h. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138.

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the

ground of sex.

- j. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, Pub. L. 100-590, Section 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

- k. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, Pub. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and leaking under ground storage tank grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purpose of this section, economically and socially disadvantage individuals shall be deemed to include women..."

#### 4. MISCELLANEOUS AUTHORITIES:

- a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a construction contract, the Applicant (County) must certify to the DOH/WB that it will not knowingly enter into a contract with any persons that are ineligible under the regulations to participate in the project. (The Applicant is also obligated to require (for its own records) similar certifications from its contractors, who must in turn require certification from their subcontractors.)



## **APPENDIX N**

### **FISCAL RECORDS TO BE MAINTAINED BY LOAN APPLICANT**

## **FISCAL RECORDS TO BE MAINTAINED BY SRF LOAN RECIPIENTS**

### **PURPOSE**

These instructions outline the fiscal records that SRF loan recipients must maintain. Attached are specimen accounting records, which may be modified to conform with the loan recipient's existing practices.

### **LOAN RECIPIENT'S RESPONSIBILITY**

The loan recipient is responsible for establishing and maintaining adequate accounting and fiscal records to reflect the receipt and expenditure of funds for the project. These accounting records must be maintained in accordance with generally accepted accounting principals and the guidelines outlined below.

### **CONSTRUCTION ACCOUNT**

Upon acceptance of the loan, the recipient shall establish a "Construction Account" to which all receipts for the payment of the project cost, regardless of source, shall be credited and all disbursements shall be charged. At all times, this account shall reflect: total receipts, total disbursements, the account balance, and the purpose for which each disbursement was made. The above items shall be identified by categories of costs specified in the application form and the Pre-Award form.

### **SUPPORTING DOCUMENTS**

Documents supporting each entry in the "Construction Account" shall be kept intact and available for 3 years from the date of the final settlement. During this period, representatives of the State and Federal government shall have access to the facilities, premises, and all project-related records.

### **CUSTODY AND DISBURSEMENT**

State and local laws, regulations, and procedures governing the custody and the disbursement of the recipient's funds shall apply to the SRF funds. If not inconsistent with local laws and regulations, the following recommendations are made regarding the receipt and expenditure of SRF loan funds.

1. The loan recipient's official treasurer should serve as the custodian for all cash received and expended in the wastewater treatment construction program.
2. The custodian's records should reflect the cash received from SRF loan payments, and checks or warrants issued or paid.
3. The reconciliation statements should be prepared at the end of each month to reconcile the cash balance, as shown by the bank statement, with the cash balance carried on the custodian's books.

#### **SUGGESTED DESIGN OF ACCOUNTING RECORDS**

Accounts shall be designed to reflect the purpose for which each expenditure is made. Accounting systems shall be organized to facilitate auditing and the preparation of reports. Records of the recipient shall reflect all fiscal transactions between the recipient and the contractor/vendor, and between the recipient and the Department of Health. The following are examples of financial transactions that should be included in the recipient's accounting system:

1. Appropriations or authorizations made by the recipient for the project.
2. Allocations of SRF funds for the project.
3. Contracts entered into, orders placed, and project costs for the acquisitions of assets.
4. Disbursements to engineers, contractors, and vendors in liquidation of liabilities.
5. SRF payments received.

#### Payment Request Instructions

All construction costs must be substantiated by submitting copies of the "Contractor's Monthly Pay Estimates". These documents must be signed by the contractor, the engineer, and the loan recipient. Costs must be identified as eligible or ineligible, based on the DOH Allowable Cost Criteria.

## Completing the Combined Voucher Register and Expenditure Distribution Journal

This journal, also known as the "spreadsheet", must be submitted with each loan payment request. A sample of the journal is attached. All costs incurred must be reflected in the journal, with eligible and ineligible costs clearly identified. The journal must be continually updated with cumulative totals of costs. The nature of the expenditure must be specifically indicated in the column entitled "Purpose of Expenditures". A general description of the services, e.g. "engineering services" or "professional services", is not acceptable.

### **DEFINITIONS OF COST CATEGORIES**

The following definitions have been provided for guidance only and do not ensure the eligibility of specific items.

1. CONSTRUCTION AND PROJECT IMPROVEMENT COSTS include those costs associated with the actual construction of, addition to, or restoration of a facility.
2. ARCHITECTURAL/ENGINEERING BASIC FEES include reasonable and necessary costs incurred for preparation of: 1) preliminary plans and studies; 2) project reports; 3) environmental impact statements; 4) operation and maintenance manuals; 5) construction drawings, specifications, estimates, bid documents, and construction contracts; 6) fees for preliminary engineering work such as surveys, tests and borings, foundation investigations, and other work required prior to construction.
3. OTHER ARCHITECTURAL/ENGINEERING FEES include all fees for architectural/engineering services not included in the basic fees. "Other Fees" are usually costs that are incurred after award of the construction contract, for example, project inspection fees and construction surveys.

NOTE: Only costs incurred with reference to that portion of the project are considered eligible for loan participation.

4. EQUIPMENT includes costs of eligible equipment, if such costs were not included in the construction contract, and must have prior written approval for direct purchase.
5. CONTINGENCIES are unforeseen costs, such as change orders, which may be eligible for loan payment. The amount of the contingency for each project, shall be based on five percent of the eligible construction costs.

Attached are specimen accounting records for Cash Control Card - Project Register and Combined Voucher Register and Expenditure Distribution Journal.

CONTROL CARD - PROJECT REGISTER

| DATE | NO.** | DESCRIPTION                | CASH<br>RECEIPT | DISBUR<br>SE-<br>MENTS | CASH<br>BAL. |
|------|-------|----------------------------|-----------------|------------------------|--------------|
|      | Wr. 1 | City appropriation         | 50,000          |                        | 50,000       |
|      | Wr. 8 | Receipt from Bond<br>Issue | 100,000         |                        | 150,000      |
|      | Vo. 1 | ABC Construction           |                 | 25,000                 | 125,000      |
|      | Vo. 2 | ABC Construction Co.       |                 | 25,000                 | 100,000      |
|      | F. 1  | Payment from EPA           | 20,000          |                        | 120,000      |

\*\*Document Identification

Each transaction should be supported by appropriate documentation.

A subsidiary card similar to the one above might be maintained for each classification of costs as shown in Section IV of the loan application and the project budget of the loan agreement. The "Cash Balance Available" column is not required on the subsidiary card. If an Expenditure Distribution Journal is maintained, the subsidiary card is not necessary.

COMBINED VOUCHER REGISTER AND  
EXPENDITURE DISTRIBUTION JOURNAL  
(SPREADSHEET)

<-----ELIGIBLE COSTS----->

| PAYEE | PURPOSE OF<br>EXPENDITURES | TOTAL | CONSTRUCTION<br>CONTRACT | EQUIP. &<br>MATERIALS | A&E OR<br>OTHER FEES | PROJ.<br>INSP. &<br>INSPEC. | ADM. &<br>FISCAL | INELIG.<br>COSTS |
|-------|----------------------------|-------|--------------------------|-----------------------|----------------------|-----------------------------|------------------|------------------|
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |
|       |                            |       |                          |                       |                      |                             |                  |                  |

Supporting Documents:

1. Each payment to contractor shall have:
  - a. Contractor's work sheet (summary sheet) signed by the contractor.
  - b. Engineer's certification of payment.
2. Purchase of Equipment and Materials shall have:
  - a. Purchase Order - dated
  - b. Invoice - dated
3. All other types of expenditures should have appropriate supporting documents: for example, time records for city employees serving the project. In order to reflect net disbursements, it is suggested that any refunds be recorded in this journal.

I certify that the information provided is true and that the eligible and ineligible costs were determined based on the plans and specifications approved by the Dept. of Health/Wastewater Branch.

\_\_\_\_\_  
Preparer

## **APPENDIX O**

### **MINORITY BUSINESS ENTERPRISES/WOMEN BUSINESS ENTERPRISES (MBE/WBE)**

# INSTRUCTIONS

## MBE/WBE UTILIZATION UNDER FEDERAL ASSISTANCE AGREEMENTS AND INTERAGENCY AGREEMENTS EPA FORM 5700-52A

### A. General Instructions:

MBE/WBE utilization is based on Executive Orders 11625, 12138, 12432, P.L. 102-389 and EPA Regulations Part 30 and 31. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report to EPA within one month following the end of each Federal fiscal year quarter or annually as in the agreement.

### B. Definitions:

*Procurement* is the acquisition through order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A *contract* is a written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for equipment, services, supplies, or construction necessary to complete the project. Includes personal and professional services, agreements with consultants, and purchase orders.

A *minority business enterprise* (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A *woman business enterprise* (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned

business, at least 51 percent of the stock is owned by one

or more women and (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals.

The following affirmative steps for utilizing MBEs and WBEs are required to be documented:

1. Inclusion of MBEs/WBEs on solicitation lists.
2. Assure MBEs/WBEs are solicited once they are identified.
3. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/WBE participation.
4. Where feasible, establish delivery schedules which will encourage MBE/WBE participation.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.
6. Require that each party to a subgrant, subagreement, or contract award take the affirmative steps outlined here.

### C. Instructions for Part I:

- 1a. Complete Federal fiscal year.
- 1b. Check applicable reporting box quarterly or annually. **(Federal fiscal year runs from October 1 through September 30.)**
- 1c. Indicate if this is a change to previous year or quarter. **(Highlight items to be revised and provide explanation in Block No.6-Comments.)**
- 2a-c. **"Will be provided by EPA."**



3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Assistance Agreements or Interagency Agreement number assigned by EPA. A separate form must be used for each Assistance Agreement or Interagency Agreement.

**\*For SRF recipients:** In box 4a list numbers for ALL open Assistance Agreements. SRF recipients will report activity for all Agreements on one form.

4b. Refer back to Assistance Agreement document for this information.

5a. Total amount of Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

**\*For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.

5b. Self-explanatory.

5c. Total contracts/procurements awarded this quarter. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/procurement centers).

**\*For SRF recipients only:** In 5c please enter the total procurement amount for the quarter under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number.

5d. Dollar amount of all MBE/WBE procurement amounts awarded under this reporting period by the recipient. **(These amounts include the Federal, State and local shares in the procurement awards). (SRF state recipient report state procurements in this section.)**

5e. Dollar amount of all MBE/WBE procurement amounts awarded under this reporting period by the loan recipients, sub-recipients, and prime contractors.

6. Additional comments or explanations. Please refer to specific item number(s) if appropriate.

7. Name and title of official administrator or designated reporting official.

8. Signature and month, day year report submitted.

#### D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this is a *first tier* procurement made directly by Federal financial assistance recipient or other *second tier* procurement made by recipient's subgrantee or prime contractor. **Include all qualifying second tier purchases executed this quarter regardless of when the first tier procurement occurred.**

2. Check MBE or WBE.

3. Dollar value of procurement.

4. Date of award, shown as month, day, year. Date of award is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award.

5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (eg., enter 1 if construction, 2 if supplies, etc).

6. Name, address, and telephone number of MBE/WBE firm.

This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30 and 31); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M St., S.W., Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.

## U.S. ENVIRONMENTAL PROTECTION AGENCY MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND INTERAGENCY AGREEMENTS

### PART 1. (Reports are required even if no procurements are made during the reporting period.)

| 1A. FEDERAL FISCAL YEAR<br><br>200_____   |            | 1B. REPORTING QUARTER (Check appropriate box)<br><br><input type="checkbox"/> 1 <sup>st</sup> (Oct-Dec) <input type="checkbox"/> 2 <sup>nd</sup> (Jan-Mar) <input type="checkbox"/> 3 <sup>rd</sup> (Apr-Jun) <input type="checkbox"/> 4 <sup>th</sup> (Jul-Sep) <input type="checkbox"/> Annual |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
|---|------------|--|------------|--------|--------------|-------|-------|-----------|-------|-------|----------|-------|-------|----------|-------|-------|-------|-------|-------|---|--|--|--------|--------|--------------|-------|-------|-----------|-------|-------|----------|-------|-------|----------|-------|-------|-------|-------|-------|
| 1C. REVISION<br>Year: _____<br>Quarter: _____   |            | HIGHLIGHT ITEMS TO BE REVISED AND PROVIDE EXPLANATION IN BLOCK No. 6   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 2A. FEDERAL FINANCIAL ASSISTANCE AGENCY<br>(EPA Office Address - ATTN: DBE Coordinator)   |            | 3A. REPORTING RECIPIENT (Name and Address)   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 2B. REPORTING CONTACT<br>(EPA DBE Coordinator)  | 2C. PHONE: | 3B. REPORTING CONTACT (Recipient)  | 3C. PHONE: |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER<br>(SRF State Recipients, Refer to Instructions for Completion of 4A, 5A, and 5C)  |            | 4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 5A. TOTAL ASSISTANCE AGREEMENT AMOUNT<br><br>EPA Share: \$ _____<br><br>Recipient Share: \$ _____   |            | 5B. Check and skip to Block No. 7 if no procurements and accomplishments were made this reporting period.<br><br><input type="checkbox"/>  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 5C. TOTAL PROCUREMENT AMOUNT THIS REPORTING PERIOD (ONLY include the amount not in any prior reporting period and procurements made by SRF Loan Recipients and Sub-Recipients)<br>\$ _____<br>(Exclude procurement amounts reported by Prime Contractors)   |            |  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 5D. ACTUAL MBE/WBE PROCUREMENT ACCOMPLISHED THIS REPORTING PERIOD BY RECIPIENT (SRF State Recipients, Report State Procurement Activities Here)<br><br><table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">\$ MBE</th> <th style="text-align: center;">\$ WBE</th> </tr> </thead> <tbody> <tr><td>Construction</td><td>_____</td><td>_____</td></tr> <tr><td>Equipment</td><td>_____</td><td>_____</td></tr> <tr><td>Services</td><td>_____</td><td>_____</td></tr> <tr><td>Supplies</td><td>_____</td><td>_____</td></tr> <tr><td>TOTAL</td><td>_____</td><td>_____</td></tr> </tbody> </table> |            |  | \$ MBE     | \$ WBE | Construction | _____ | _____ | Equipment | _____ | _____ | Services | _____ | _____ | Supplies | _____ | _____ | TOTAL | _____ | _____ | 5E. ACTUAL MBE/WBE PROCUREMENT ACCOMPLISHED THIS REPORTING PERIOD BY LOAN RECIPIENTS, SUB-RECIPIENTS, AND PRIME CONTRACTORS<br><br><table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">\$ MBE</th> <th style="text-align: center;">\$ WBE</th> </tr> </thead> <tbody> <tr><td>Construction</td><td>_____</td><td>_____</td></tr> <tr><td>Equipment</td><td>_____</td><td>_____</td></tr> <tr><td>Services</td><td>_____</td><td>_____</td></tr> <tr><td>Supplies</td><td>_____</td><td>_____</td></tr> <tr><td>TOTAL</td><td>_____</td><td>_____</td></tr> </tbody> </table> |  |  | \$ MBE | \$ WBE | Construction | _____ | _____ | Equipment | _____ | _____ | Services | _____ | _____ | Supplies | _____ | _____ | TOTAL | _____ | _____ |
|   | \$ MBE     | \$ WBE   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Construction  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Equipment   | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Services  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Supplies  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| TOTAL   | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
|   | \$ MBE     | \$ WBE   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Construction  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Equipment   | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Services  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| Supplies  | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| TOTAL   | _____      | _____  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 6. COMMENTS:  |            |  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 7. NAME OF AUTHORIZED REPRESENTATIVE  |            | TITLE  |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |
| 8. SIGNATURE OF AUTHORIZED REPRESENTATIVE   |            | DATE   |            |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |   |  |  |        |        |              |       |       |           |       |       |          |       |       |          |       |       |       |       |       |

**MBE/WBE PROCUREMENTS MADE DURING REPORTING PERIOD**  
**EPA Financial Assistance Agreement Number: \_\_\_\_\_**

| 1. Procurement Made By |       | 2. Business Enterprise |       | 3. \$ Value of Procurement | 4. Date of Award<br>MM/DD/YY | 5. Type of Product or Services <sup>A</sup><br>(Enter Code) | 6. Name/Address/Phone Number of MBE/WBE Contractor or Vendor |
|------------------------|-------|------------------------|-------|----------------------------|------------------------------|---|--|
| Recipient              | Other | Minority               | Women |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |
|                        |       |                        |       |                            |                              |   |  |

<sup>A</sup>Type of product or service codes:

1 = Construction

2 = Supplies

3 = Services

4 = Equipment

A = Business Services  
 B = Professional Services  
 C = Repair Services  
 D = Personal Services

February 26, 2002

Mr. Timothy Steinberger, Director  
Department of Environmental Services  
City and County of Honolulu  
630 South King Street  
Honolulu, Hawaii 96813

Dear Mr. Steinberger:

Subject: SF-334, Minority Business Enterprises and Women's  
Business Enterprises Utilization Report for  
Federal Assistance Program

The recipients of Federal funds are required to make positive efforts to procure Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE) for the State Revolving Fund (SRF) projects.

Attached is a copy of 40 CFR, Section 31.36(e) and Section 35.3145(d) for your reference. As one of the Environmental Protection Agency (EPA) SRF program requirements, the Department of Health is required to report the MBE/WBE utilization to EPA quarterly.

Please follow the six (6) affirmative steps as stated in 40 CFR, Section 31.36, involving procurement for any projects which will be funded under the SRF programs. Also, please include the applicable "fair share" objectives of the SRF programs in the bid documents and require the prime contractors to include in their bid documents for subcontracts the negotiated fair share percentages.

The State's "fair share" participation goals for MBEs and WBEs for FY 2002 are as follows:

| <u>Procurement Category</u> | <u>MBE Goal</u> | <u>WBE Goal</u> |
|-----------------------------|-----------------|-----------------|
| Supplies                    | 21%             | 2%              |
| Equipment                   | 27%             | 2%              |
| Services                    | 29%             | 7%              |
| Construction                | 50%             | 4%              |

Mr. Timothy Steinberger  
February 26, 2002  
Page 2

To help us monitor and ensure that counties and contractors are meeting these goals, an SF Form 334 must be completed by recipients for each federally funded project if an award of a contract for services, construction, or procurement of equipment or supplies are made.

Counties are required to report to the State of Hawaii, Department of Health, Wastewater Branch upon the time the contract is executed or procurement incurred. This will ensure that we meet the reporting deadline (within 30 days after the end of the reporting quarters) to EPA.

Your prompt submission of the report is appreciated. Questions may be directed to George Woolworth of our Wastewater Branch at 586-4294.

Sincerely,

THOMAS E. ARIZUMI, P.E., CHIEF  
Environmental Management Division

GW:jc

Attachment

c: Safe Drinking Water

## **APPENDIX P**

### **SRF PAYMENT REQUEST FORM**

STATE REVOLVING FUND PROGRESS PAYMENT REQUEST

Payment No. \_\_\_\_\_ Final \_\_\_\_\_ Interim \_\_\_\_\_

ASO Log No. \_\_\_\_\_

Project No. C1500 \_\_\_\_\_ Project Name \_\_\_\_\_

Payment Covered by This Report: From: \_\_\_\_\_ To: \_\_\_\_\_

MO DA YR MO DA YR

County Name: \_\_\_\_\_

No. and Street: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

| STATUS OF FUNDS   |                           |                            |                |
|---|---------------------------|----------------------------|----------------|
| CLASSIFICATION  | REIMBURSEMENT COMPUTATION |                            |                |
|   | TOTAL<br>REQUEST          | INELIGIBLE/<br>ADJUSTMENTS | NET<br>PAYMENT |
| 1. Architectural Engineer Basic Fees (Design Allowance) |                           |                            |                |
| 2. Other Architectural Engineering Fees                 |                           |                            |                |
| 3. Project Inspection Fees                              |                           |                            |                |
| 4. Relocation Expenses                                  |                           |                            |                |
| 5. Construction and Project Improvement                 |                           |                            |                |
| 6. Equipment  |                           |                            |                |
| 7. Miscellaneous  |                           |                            |                |
| 8. Total Cumulative to Date (sum of lines 1 thru 7)     |                           |                            |                |
| 9. Payment Previously Requested                         |                           |                            |                |
| 10. Current Payment Requested                           |                           |                            |                |
| 11. Percent of Physical Completion of Project           |                           |                            |                |

I certify that based on actual project inspection, percentage on line 11 is correct and payment on this request is justified.

\_\_\_\_\_  
Signature of County Construction Inspector

\_\_\_\_\_  
Typed or Printed Name and Title

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Telephone No. (Area Code, No. & Extension)

I certify that to the best of my knowledge and belief, the billed costs are correct, in accordance with the loan/grant agreement and have not been previously presented for payment.

\_\_\_\_\_  
Signature of County Certifying Official

\_\_\_\_\_  
Typed or Printed Name and Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Telephone No. (Area Code, No. & Extension)

## **APPENDIX Q**

### **CHANGE ORDER GUIDELINES**



## CHANGE ORDER GUIDELINES

### A. Purpose

This document provides guidelines on the eligibility and approval of construction change orders. It is emphasized that this document only provides guidelines. It is the responsibility of the loan recipient to conduct a critical screening and thorough review of any proposed change order (costs, justification, etc.) before the change order is executed and submitted to DOH for an eligibility determination. Determination of eligibility by DOH may require additional engineering or other information not specified in these guidelines.

### B. Procedural Requirements

#### 1. Permissible Use of Change Orders

The use of change orders is limited to work within the scope of the original construction contract. Change orders which propose a substantial increase in project capacity or a change in project scope will not be approved unless the Director executes a new loan agreement or amends the scope of the existing loan.

#### 2. Time for Submission

All change orders must be submitted to DOH in a timely manner for review of loan eligibility. Any change order work performed after the date of the final inspection is ineligible for funding. Only fully signed change orders will be reviewed for eligibility.

#### 3. Negotiation

Each loan recipient is responsible for the negotiation of change orders with the contractor. Negotiations are not required where bid unit prices are used. The negotiations must include a critical screening and review by the loan recipient or his engineer of all elements of the change order to ensure a fair and reasonable price for the required work.

#### 4. Submission Requirements

Each change order submitted to DOH for review must include the following items:

- a. Project name and number.
- b. Names and telephone numbers of project engineer, contractor and owner.
- c. Contract change order number.
- d. Change order date of execution.
- e. Description or information identifying the change and its location on the drawings.
- f. Appropriate drawings, sketches, and specifications.
- g. Design calculations, where appropriate.
- h. Justification. Questions that should be addressed are: 1) Why is this change necessary for completion of the work originally set forth by the contract? 2) Why was the change order work not foreseen during the preparation of the original plans and specifications? 3) What alternatives were considered for accomplishing the desired result? 4) Is this the most cost-effective alternative? 5) What effect will this change have on the operation and maintenance of the project? Other relevant questions should be addressed, if they are evident.
- i. Name and title of originator of change order request.
- j. Signatures of the applicant's authorized representative or designee, construction manager or engineer, and contractor.
- k. Time extension. All change orders must specify the time extension associated with the change order work, including no time extension when applicable.
- l. Cost and Pricing Data. A price breakdown in sufficient detail for DOH to review the necessity and reasonableness of the cost.

C. Eligibility

The review of the contract change orders by DOH will determine loan funding eligibility. Eligible change orders must involve construction work within the scope of the project. Change orders outside the scope of work will not be eligible, unless a supplemental loan agreement is processed to increase the scope of work.

Change order costs which exceed 5% of the original eligible construction contract will not be eligible for SRF funding, unless the Director approves a loan amendment to increase the loan amount.

In order for a change order to be eligible, it must meet the Allowable Cost Criteria attached to Appendix I. Other change order issues include:

1. Time Extension

A change order to extend the time the contractor has to finish the project shall be approved if the loan recipient is legally obligated to grant the contractor extra time under the conditions of the contract. However, a time extension for delays attributable to the loan recipient or his agent, which extends the contract schedule, will not be approved. Approval by DOH of a change order for time extension means approval to fund reasonable extended engineering and inspection costs. The loan recipient may have a legal obligation to grant a time extension if the contractor is delayed because of some situation outside of his control, such as: strikes, floods, or delays of subcontractors or suppliers arising from causes beyond their control and without the fault or negligence of both the contractor and such subcontractors or suppliers.

A change order for the extended engineering and inspection costs must meet the eligibility tests; that is, they must be within the scope of work, and the costs must be within the funding cap.

2. Operation, Maintenance, and Repairs

Generally, the operation, maintenance and routine repairs or renovation of any existing wastewater treatment facilities during construction is the responsibility of the loan recipient and is not fundable as a change order unless it is part of the approved project and has been identified as part of the scope of work in the facility plans, concept approval or original construction contract.

3. Damage to Equipment or Completed Work; Personal Injuries

The costs of damage to equipment or completed work or the cost of personal injuries shall be handled in accordance with the original contract and general legal principles. Such costs are not fundable by change order.

4. Acceleration Costs

Acceleration costs are not loan fundable unless there is a compelling reason to have the treatment facilities operational by a certain date such as to avoid a dangerous health or public safety problem. This presupposes that neither the loan recipient nor his agent has delayed the completion date through negligence or mismanagement of the project.

5. Restrictive specifications

Specifications for equipment or material procured by change order must not contain any restrictive specifications. The entire cost of purchasing and installing any item obtained in violation of the specification requirements is not fundable.

6. Overhead and Profit

The loan recipient shall assure a fair and reasonable price for the required work.

7. Conditioned Acceptance

The loan recipient should attempt to settle all elements of a given change order on a one time basis. In the event that a contractor conditions his acceptance of a change order on the inclusion of costs for impact and delay to be determined in the future, DOH shall include the following disclaimer on the change order approval form:

"Any payment made on this conditional change order is in no way a commitment to fund additional amounts claimed by the contractor arising from this change order; requests for further funding, after payment specified here is made, will prompt the reevaluation of eligibility for the entire change order including the impact delay costs."

## **APPENDIX R**

### **REVENUE PROGRAM GUIDELINES**

## REVENUE PROGRAM GUIDELINES

### I. INTRODUCTION

These Guidelines are intended to assist counties in developing, implementing and maintaining revenue programs and implementing ordinances to comply with Section 204(b)(1) of the Clean Water Act and other federal and State guidance and policies.

If any conflicts exist between these Guidelines and federal or State loan regulations or policy, the regulations or policy shall take precedence over these Guidelines.

### II. GENERAL

- A. The Revenue Program is a formally documented determination of a system of service charges developed by the loan recipient. It is also intended to assure that the loan recipient develop a system for the economical and effective operation and maintenance (including replacement) of the treatment works [see 40 CFR 35.2206(e)]. It is designed to provide a source of revenue for operation and maintenance (including replacement) that satisfies the federal regulations (see 40 CFR 35.2140). In addition, debt service and revenue to establish a capital reserve fund and an operating reserve fund may be collected by the system of charges based on actual use, or by ad valorem taxes (see section 602(b) (6) of the Clean Water Act).

A system of service charges is developed first by estimating the recipient's annual revenue requirements for the entire system. Rates are then set based on the identification of the users of the treatment works.

- B. The loan recipient must submit revenue program to DOH every year (see 40 CFR 35.2122).
- C. The loan recipient must send a final Revenue Program and proposed (or existing) Sewer Use Ordinance (see VII) to the DOR Wastewater Branch, for annual review.
- D. The User Charge System shall take precedence over any terms or conditions of agreements or contracts that are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act and these Guidelines [see 40 CFR 35.2140(h)].

### III. ANNUAL REVENUE REQUIREMENTS

- A. The loan recipient must pay the annual costs of operating and maintaining their treatment works (see 40 CFR 35.2214). This includes the costs of labor, power, chemicals, supplies, laboratory control and monitoring, general administration, billing, and incidental items incurred during normal operation. Also included are those expenditures termed ordinary repairs necessary to keep the facilities in proper operating condition, replacements as defined below and administrative costs such as overhead and administration which are directly related to the operation and maintenance of the treatment works.

The loan recipient should estimate operation, maintenance and replacement (OM&R) costs by adjusting its latest operating cost data to reflect operational changes, wage escalation and staffing changes.

A separate line item for replacement of non-capital items must be shown in calculating annual revenue requirements. Replacement costs include expenditures necessary to keep the treatment works operating for its useful life, such as: pumps, motors, telemetry and electric controls, air scrubbing equipment, chlorination and dechlorination equipment, vehicles, radios, etc. Exceptions include:

1. Major rehabilitation needed as individual unit processes near the end of their useful lives;
2. Structural rehabilitation; and,
3. Facility expansions or upgrades to meet future use demands.

#### B. Debt Service

Debt service is the annual sum of the principal and interest payments on proposed or outstanding obligation secured by bonds or loan contracts. The loan receive from DOH must be repaid by a dedicated source of revenue (see VIII, Dedicated Sources of Revenue). A separate account must be maintained for repayment of the state revolving fund loan if the loan recipient collects the dedicated revenue by the current existing user charge system.

- C. The loan recipient is encouraged to establish a capital reserve fund to pay for future expansion, improvement and rehabilitation. These capital reserves usual appear as a separate line item within the annual budget. Each loan recipient must be

be prepared to submit upon request a plan showing the estimated cost of future expansions/replacement [see 40 CFR 35.2030(b)(8)(iii)] and how these costs will be financed.

#### IV. IDENTIFICATION OF USERS

After determining the annual revenue requirements, the recipient must identify the users of the treatment works and the characteristics of their wastewater. Flows and loadings (BODS, SS or other appropriate constituents) must be documented for each user group so that proportional costs can be calculated.

#### V. ALLOCATION OF ANNUAL REVENUE REQUIREMENTS AND RATE DETERMINATION

Allocation of annual costs shall be calculated in accordance with the EPA publication, "User Charge Guidance Manual for Publicly Owned Treatment Works," dated June 1984. To minimize disagreement over cost allocation methods, the recipient should consult the Wastewater Branch on any allocation method not described in these Guidelines.

##### A. Specific Circumstances

The user charge system shall provide that the costs of operation and maintenance for all flows not directly attributable to users (i.e., infiltration/ inflow) be distributed among all users based on either of the following [see 40 CFR 35.2140(e)]:

1. In the same manner that it distributes costs for their actual use or
2. Under a system reasonably using one or any combination of the following factors:
  - a. Flow volume of the users;
  - b. Land area of the user;
  - c. Number of hookups or discharges of the users.

##### B. Regulations Affecting Rate Determination

1. The portion of the annual revenue requirements which constitutes the cost of OM&R of the treatment works must be recovered from users of the system by means of a user charge system based on actual use (see 40 CFR 35.2140). The total OM&R budget may, however, be offset by income derived from the operation of the wastewater facilities such as sale of used equipment, sludge, sludge gas, power created by the effluent or from residues, renovated wastewater, farm crops or other wastewater treatment-related



assets [see 40 CFR 35.2140(f)]. The user charge system must result in the distribution of the OM&R costs among all users in proportion to the demands they place on the treatment works (Section 204(b) (1)(A) of the Clean Water Act). A user charge system based on actual use may take the form of a flat rate, unit rate on water consumption, fixture units, equivalent dwelling unit, or other type of charge which recovers the cost equitably.

2. Section 204 (b) (1) of the Clean Water Act allows agencies at their option to adopt reduced (less than proportionate share) rates for low-income residential users. Low-income users are defined as any user whose income is below the poverty rate established within the sewerage agency's County. These reduced service charges, if used, must be based on an economic consideration only. The discount may not be applied only to a subgroup under the poverty level (i.e., only to senior citizens).
3. Any pre-existing agreements which levy charges for more or less than what would be collected on actual use will not be allowed to continue, and the charges must be revised to reflect actual use [see 40 CFR 15.240(h)]. Industries which reserve additional capacity must pay the additional cost and the fixed OM&R costs associated with that reserve capacity.
4. User charges must recover the cost of operation and maintenance (including replacement) from users based on their proportionate contribution to the total wastewater loadings from all users (see 40 CFR 35.2140). The State recommends that user rates designed to recover all other costs be proportional to the cost of the service rendered. Charges for these other costs may be collected through service charges, ad valorem taxes or assessments. If they are collected through service charges and the agency does not wish to recover the other costs in proportion to system use, public notice is required describing the impacts of the proposed rate structure. The public must have an opportunity to comment within a reasonable period of time before final adoption of the rate ordinance. All organizations and individuals who have previously requested such notice shall be given notice by direct mailing. The Notice shall be published in a newspaper of general circulation within the agency's service area.

## VI. IMPLEMENTATION AND MAINTENANCE

### A. Implementing Ordinances

The user charge system must remain in effect for the useful life of the facility (CFR 35.2208). DOH must approve any changes in the rate or methodology of assessing charges before they can take effect.

B. Accounting Systems

Loan recipients are encouraged to adopt an Enterprise Fund to account for operations, where user charges finance or recover costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis. Another parallel situation is where the governing body uses revenues earned, expenses incurred, and net income to make decisions on capital maintenance, public policy, management control, accountability or other purposes.

## **APPENDIX S**

### **UCS REVIEW FINANCIAL REPORT**

# USER CHARGE SYSTEM FINANCIAL REPORT

COUNTY OF \_\_\_\_\_

FISCAL YEAR \_\_\_\_\_

## 1. REVENUE/INCOME:

|   | BUDGETED | ACTUAL |
|---|----------|--------|
| USER CHARGES<br>(Charges for wastewater treatment services, by class) |          |        |
| INCOME<br>(Sales of Treatment products, i.e. sludge, electricity)     |          |        |
| AD VALOREM TAXES<br>(Dedicated for treatment services)                |          |        |
| <u>TOTAL REVENUE/INCOME</u>   |          |        |

## 2. EXPENDITURES:

### LABOR EXPENSES:

-DIRECT COSTS (salaries/wages)

-INDIRECT COSTS \_\_\_\_\_

### CONTRACTURAL SERVICES:

-ADMINISTRATIVE \_\_\_\_\_

|                                  |  |  |
|----------------------------------|--|--|
| -PROFESSIONAL                    |  |  |
| <b>MATERIALS &amp; SUPPLIES:</b> |  |  |
| -OPERATIONS                      |  |  |
| -REPAIR & MAINTENANCE            |  |  |
| -LABORATORY                      |  |  |
| -ADMINISTRATIVE                  |  |  |
| <b>UTILITIES:</b>                |  |  |
| -POWER (T'ment plants)           |  |  |
| -POWER (Admin. buildings)        |  |  |
| -WATER                           |  |  |
| -GAS                             |  |  |
| -TELEPHONE                       |  |  |
| <b>EQUIPMENT REPLACEMENT:</b>    |  |  |
| <b>TOTAL EXPENDITURES</b>        |  |  |

**3. SUMMARY:**

**TOTAL REVENUE/INCOME** \_\_\_\_\_

**TOTAL EXPENDITURES** \_\_\_\_\_

**PROFIT/(LOSS)** \_\_\_\_\_

## **APPENDIX T**

### **INFORMATION PHONE NUMBERS**

### **INFORMATION PHONE NUMBERS**

| <b>Issue</b>   | <b>Contact</b>              | <b>Phone Number</b> |
|--|-----------------------------|---------------------|
| Priority List, Project Report,<br>Environmental Review,<br>Plans & Specs, Construction<br>Change Orders, Operations                    | Sina Pruder                 | 586-4294            |
| Loan Application<br>Preaward<br>Loan Payments<br>Loan Repayments<br>Loan Agreement<br>Kauai, Oahu (Kevin)<br>Big Island, Maui (Adrian) | Adrian Lau & Kevin Yoshioka | 586-4294            |
| Single Audit User Charge System<br>User Charge System<br>Financial Capability<br>Record Keeping  | Kevin Yoshioka              | 586-4294            |
| Disputes   | Harold Yee                  | 586-4294            |